

THE EXTRADITION MANUAL

**CONTAINING THE INDIAN EXTRADITION ACT 1903 WITH
COMMENTARY AND RULES ALONG WITH EXTRADITION
ACTS OF BRITISH PARLIAMENTS AND TREATIES
WITH FOREIGN POWERS AND NATIVE STATES.**

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Court of Wards Manual etc., etc.**

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RESPECTFULLY DEDICATED

TO

The Hon'ble Mr. Justice Kanwar Dalip Singh,

BAR-AT-LAW

Judge High Court Lahore

IN TOKEN OF

AUTHOR'S PROFOUND REGARD

FOR

HIS LORDSHIP'S HIGH INTELLECT AND ERUDITION

INTRODUCTION.

Extradition is the act of surrendering by one state the offender who has fled from justice from the other, to that state. In barbarous ages Nations regarded each other as natural enemies. The crime committed in one country was almost sure of impunity in another. The idea of extradition originated from sheer out of necessity and the origin may be ascribed to the progress of civilization.

Experience showed that nothing could be more efficacious to suppress crime than the certainty that when it had been committed there was not a spot of earth where the perpetrator could calculate on remaining unpunished.

Now all the countries of the world are linked together by Treaties regarding extradition of criminals, and the International law has adopted the principle of the extradition. But in actual practice some intricate questions regarding extradition of criminals have arisen, and Governments and jurists have found it difficult to fix the limits within which powers of extradition should be exercised. Certain clauses in the Treaties have been inserted, whereby a state is not bound to surrender his own subject or when a person is charged with an offence of Political character, he must not be surrendered.

The Indian Extradition Act, 1903, embodies the Extradition Act 1870 (33 and 34 Vict., Ch. 59) as subsequently amended and the Fugitive Offenders Act, 1881, (44 and 45 Vict., Ch. 69) in chapters II and IV, respectively with certain necessary modifications to suit the special circumstances of the country—viz, British India, and also provides for cases not covered by the Imperial Statutes.

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THE INDIAN EXTRADITION ACT.

ACT XV OF 1903.

[4th November, 1903.]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

Whersas it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870¹ and 1873², and of the Fugitive Offenders Act, 1881³;

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873 do not apply ;

It is hereby enacted as follows:—

Preamble :—The Preamble indicates in general terms the object of Legislature in passing an Act 11 app cases 286.

The Preamble cannot restrict the enacting part of an Act, although it may be referred to for solving an ambiguity. 45 C. 343, 9 L 260, 20 C. W N. 1158

The scope of the Act cannot be controlled by preamble if the Act is clear and unambiguous 122 I. C 266, 55 C 67, 49 A. 903

Interpretation of Statute :—Extradition Act and Criminal Procedure Code must be strictly construed and in a sense most favourable to accused. 53 B 149=1929 B. 81=117 I C. 321. In case of doubt in Penal Statute interpretation should be in favour of person penalized 1930 A 265=31 Cr. L J 546, 11 L. 55, 30 Cr. L J 663 If two interpretations are possible, less penal should prevail 27 Cr. L. J 865=1926 Sind 243 In Penal Statutes care should always be taken not to bring in persons not within its language 26 Cr C. J. 1387=89 C 523=1926 Nag 137. In construing a criminal statute the guiding principle is to construe the words in their grammatical and natural sense, unless such a conclusion would give rise to an obvious absurdity which could never have been intended 20 Cr L J. 161=16 I C 481. The report of the Select Committee cannot be used for ascertaining the meaning of an enactment 22 C. 798-799

English Decisions :—In construing sections of Indian Act based
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 45 C
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 English decisions 51 C 745=1914 C. 864

Extradition :—"Extradition is the delivery on the part of one State to another of those who have fled from justice," *Halsbury Laws of England*. There is no doubt of the right of a Government to remove from the country upon such grounds as may seem to it sufficient any persons who are the subjects of another State. It is founded on the broad principle that the reciprocal surrender of criminals is in the common interest of civilized communities' per Russell, L. C. J., in *Re Arton* (1896), 1 Q. B. 108. It is generally based on the existence of treaties mutually entered into by various Governments, which are made operative in local law by legislation. But most nations regard Extradition of fugitive offenders as a purely political matter. In England "there is no right of delivering up people accused of crimes committed in foreign countries, in the absence of Express legislation to that effect. The law of England with regard to Extradition entirely depends upon statute."

Extradition Act 1870 :—The Extradition Act 1870 (33 and 34 Vict., Ch. 52) has been amended by subsequent Acts —

- (1) Extradition Act 1873 (36 and 37 Vict., Ch. 60).
- (2) Extradition Act 1890 (58 and 59 Vict., Ch. 33).
- (3) Extradition Act 1906 (6th Edw., VII, Ch. 15).
- (4) Extradition Act 1932 (22 and 23 Geo. V, Ch. 39).

These Acts may be cited as Extradition Acts 1870—1932. The Extradition Act 1870 was amended by the Slave Trade Act 1873 (36 and 37 Vict. Ch. 58, s. 27), and S. 5 of the Extradition Act 1873 has been amended by the Perjury Act 1911. All these Acts are given in the Appendix. Prior to the Extradition Act 1870 there was no statute giving legal validity to Extradition Treaties concluded with Foreign States by His Majesty the King and a separate Act had to be passed by the Parliament at every time a new treaty was to be concluded.

Application of Extradition Act 1870 :—The Extradition Act 1870 (33 and 34 Vict., Ch. 52) as subsequently amended applies to the whole of British Empire except Canada. S. 17 of the Act makes provision for the application of the Act of 1870 to British possessions outside the United Kingdom and sets forth certain modifications, while S. 18 provides for the saving of laws enacted by the Governments of British possessions.

By an order in Council, dated the 7th March 1904, issued in virtue of the powers conferred by S. 18 Chapter II of the Indian Extradition Act, XI of 1903 has been declared to have effect in

in any way affect the demand *vice versa* of British Governments on Foreign or Native States for the surrender of its criminals, as the procedure thereof is regulated by the treaties conventions and arrangements entered into with Foreign and Native States and also by usage. For treaties with Foreign and Native States see Appendix

(3) When a case of a fugitive offender is governed by treaty and not under the ordinary law, the High Court cannot interfere

(4) The Extradition between His Exalted Highness the Nizam's Dominion and Berar is governed by the Extradition Treaty of 1867 (Atchison's treaties, volume 9, Page 109). The procedure laid down therein is that, when an accused person is arrested in Berar by or at the instance of the Nizam's Police he is kept by the Police till a requisition is received by the District Magistrate for his surrender. No time limit is laid down and there is no necessity of a warrant from the Political Agent. In matters of bail the Magistrate has no power to admit to bail even under the Extradition Act. Except under Ss 8 and 8 A of the Act. *Daddiparsad v District Magistrate Yeotmal* A I R. 1924 Nag 313=25 Cr L J 346=77 I C 234 Baker, Offg J C

(5) According to the fifth article of treaty with Nepal, (1855), neither Government 'is bound to surrender a fugitive offender except on requisition duly made and also upon evidence of criminality. Each Government has discretion in matter of surrender of its own subject. The discretion is not taken away by the Indian Extradition Act 1903, nor is it injuriously affected in such a way as to derogate from the provisions of the treaty. *Moonga Lal Keot and others v Emperor* A I R. 1933 Pat 295=12 Pat. 347 (James and Agarwala, J J.)

(6) The Indian Extradition Act or the British Foreign Jurisdiction Act does not apply to a person resident within the original jurisdiction of High Court and who commits an offence outside British India 35 C W N 1092

(7) The Indian Extradition Act 1903 is the law of the land not so far as the third Chapter is concerned, to be applied for this or that country by order in Council or by any special means. If some special procedure has been arranged by Treaty, S 18 of the Act, provides that it may be followed, but if the Government should choose to exercise the powers given by the Act, no Municipal Court could interfere on the ground that the Government had undertaken to act otherwise then by treaty 1933 Pat. 295=12 Pat. 347 *Moonga Lal, Keot and others v Emperor*.

Commencement:—The Act came into force on and with effect from the 1st June 1904. See *Gazette of India*, 1904 Pt. I p 364

Applicability of the Act :—The Act has been declared in force in the Angul District by S. 3 of the Angul Laws Regulation, 1913, Regulation 3 of 1913 (Bihar and Orisa Code, Vol. I, P 863), and in the Arakan Hill District, by the Arakan Hill District Laws Regulation, 1916. Regulation 1 of 1916 (Burma Code, Vol I P 215).

British India :—British India has not been defined in this Act. According to S 3 (7) General Clauses Act 1897, "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor General of India.

2. Definition.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force:
- (b) "extradition offence" means any such offence as is described in the First Schedule:
- (c) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870 and 1873, apply:
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force:
- (e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence: and
- (f) "rules" include prescribed forms.

European British subject :—It has been defined by S. 4 (1) (i) Criminal Procedure Code Act V of 1898 —"European British Subject means—

- (i) Any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or
- (ii) Any subject of His Majesty who is the child or grand child of any such person by legitimate descent.

in any way affect the demand *vice versa* of British Governments on Foreign or Native States for the surrender of its criminals, as the procedure thereof is regulated by the treaties, conventions and arrangements entered into with Foreign and Native States and also by usage. For treaties with Foreign and Native States see Appendix

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(5) According to the fifth article of treaty with Nepal, (1855), neither Government 'is bound to surrender' a fugitive offender except on requisition duly made and also upon evidence of criminality. Each Government has discretion in matter of surrender of its own subject. The discretion is not taken away by the Indian Extradition Act 1903, nor is it injuriously affected in such a way as to derogate from the provisions of the treaty. *Moonga Lal Keot and others v Emperor* A I R. 1933 Pat 295=12 Pat. 347 (James and Agarwala, J. J.)

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(7) The Indian Extradition Act 1903 is the law of the land not so far as the third Chapter is concerned, to be applied for this or that country by order in Council or by any special means. If some special procedure has been arranged by Treaty, S 18 of the Act, provides that it may be followed, but if the Government should choose to exercise the powers given by the Act, no Municipal Court could interfere on the ground that the Government had undertaken to act otherwise than by treaty 1933 Pat. 295=12 Pat. 347 *Moonga Lal, Keot and others v. Emperor*.

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(6) The Indian Extradition Act or the British Foreign Jurisdiction Act does not apply to a person resident within the original jurisdiction of High Court and who commits an offence outside British India. 35 C W N 1082

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British India :—British India has not been defined in this Act. According to S 3 (7) General Clauses Act 1897, "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India.

2. Definition.—In this Act, unless there is anything repugnant in the subject or context,—

- (a) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force;
- (b) "extradition offence" means any such offence as is described in the First Schedule;
- (c) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870 and 1873, apply;
- (d) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force;
- (e) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence: and
- (f) "rules" include prescribed forms.

European British subject :—It has been defined by S 4 (1) (i) Criminal Procedure Code Act V of 1898 —"European British Subject means—

- (i) Any subject of His Majesty of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or
- (ii) Any subject of His Majesty who is the child or grand child of any such person by legitimate descent.

Naturalize l. For naturalization at least five year's residence is required. See S. 7 Naturalization Act 1870 (33 and 34 Vict., Ch. 14) as amended by 33 and 34 Vict., Ch. 102. See also 6 M. H. C. R. 7 and Act XXX of 1852.

The words "Naturalized or domiciled" which follow "born" are disjunctive of and not conjunctive with what precedes. A European British subject who marries a British Indian husband or an Indian subject of a Native State does not thereby cease to be a European British subject as defined in Cr. P. Code. *In re Bai Aisha* 53 B 149,=1929 B 81.

"*Domicile*" —Domicile connotes the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere temporary or special purpose, but with the present intention of making a permanent home until some unexpected event shall occur to induce him to adopt some other permanent home. Two things are necessary—residence and the intention of making it the permanent residence. *Lord v. Colvin* 62 Eng Rep 141=1 Drew 366, *Whicker v. Hume*, 7 H L. Cases, 124.

"*Child or grand child by legitimate descent.*"—A person claiming the privileges of an European British subject must prove not only legitimate descent, but also the nationality of his father or grandfather as the case may be, 6 M H C R 7. Where the evidence showed that a person was the legitimate grandson of a person said to have been a serjeant in the service of the King or of the East India Company, and there was no sufficient evidence to establish a valid marriage between the grandfather and a Native Christian woman, through whom he traced his descent and there were doubts about the nationality of the grandfather, *held* that there was no evidence to show that he was a British born subject. 2 weir 11=6 M H C R M.

A man is not an European British subject by his birth in Europe. 14 I. C 197, 6 P. R 1912 Cr. But a subject of the King born or naturalized in any of its self-governing colonies is a European British subject. 14 I C 197.

Forfeiture of status—A European British subject forfeits his privilege to be dealt with as such by being declared to be a European vagrant under the European Vagrancy Act IX of 1874 S 30. A European British subject born in England and coming out to India, who by choice acquires an Indian domicile is perfectly competent to do so. But by reason of his change of domicile he undoubtedly would not lose his right as a European British Subject under the Cr. P Code. *In re Bai Aisha* 53 B 149. A European British subject by marrying a British Indian husband or a resident of native state does not thereby cease to be European British Subject. 53 B 149.

Extradition offence—The definition of Extradition offence (offence mentioned in Schedule I) is applicable to chapter III Chapter II of the Act is incorporated in the Extradition Act 1870 (33 and 34 Vict. Ch. 52) and the definition does not apply to it. In that Act the word *Extradition crime* occurs which is defined as a crime which if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this Act. *Ide* S 26 Extradition Act 1870

Accused was arrested in execution of an extradition warrant wherein it was mentioned that the accused had absconded from jail and had fled from Nepal to British Territory Held, that absconding from jail was not one of the offences mentioned in the schedule to the Act viz not an 'Extradition offence' and therefore a 7 had no application and the warrant issued by the Political Agent was wholly illegal as being without jurisdiction. *Jai Pal Bhagat v Emperor* 1 Pat 57=1922 Pat. 442 *Jawal Parsad and Ross JJ*) 'offence means any act or omission made punishable by any law for the time being in force vide S 3 (37) General Clauses Act, X of 1897

Foreign state—(1) S 25 Extradition Act 1870 provides that for the purpose of this Act every colony, dependency and constituent part of a foreign state, and every vessel of that state shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign state" (2) The list of "Foreign states" viz countries which have concluded Extradition treaties and to which the Extradition Acts have been applied by order in council is given in the Appendix. (3) Under the Indian Extradition Act 1903 a foreign state is a state to which the English Extradition Act 1870 as subsequently amended applies. All the principal European states except Turkey and other states except certain South American states have concluded Extradition Treaties.

(4) The East Indian possessions of France (*e g* Pondicherry) are not a "Foreign State" as they were expressly excluded from the Extradition Treaty concluded with France

Chapter II of the Indian Extradition Act does not apply to those possession. *Muthu Reddi v Emperor* 1930 M 981=129 IC 626=53 M 1023 (*Wallance and Jackson JJ.*)

(5) Chander Nagore is a 'Foreign state' and the procedure laid down in Chapter II of the Act should be followed before surrendering an offender to the authorities of that state 48 C 328 but see 47 C. 37

(6) Nepal is not a Foreign state within the meaning of the Extradition Act 1903 *Gulli Sahu v Emperor* 42 C. 793.

High Court—High Court means, in reference to proceedings against European British subjects or persons jointly

charged with European British subjects the High Court of judicature at Fort William, Madras, Bombay, Allahabad, Patna Lahore and Rangoon and the Courts of Judicial Commissioners of the Central Provinces, Oudh and Sind and in other cases 'High Court' means the highest court of criminal Appeal or Revision for any local area, or where no such court is established under any law for the time being in force, such office as the Governor General in Council may appoint in this behalf *Vide* S 4 (g) Criminal Procedure Code Act V of 1898 For another definition of High Court *See* S 266 Cr P Code.

Whether a single Judge sitting on the original side of the High Court is or is not a High Court. *See* 32 C 379, 40 C. 423, contra 1929 C 756 (F B)

Offence—"Offence means any act or omission made punishable by any law for the time being in force *Vide* S 4 (O) Cr P Code According to S 4 Indian Penal Code as amended by S 2 of Act IV of 1898 the word offence includes even acts committed out of British India This is expressly made clear in the definition of 'offence' in this Act. The word offence as used in the Extradition Act XXI of 1879 is not restricted to offences as defined in S 40 I P. C or in Cr P Code. 26 M. 607 (White C. J)

It was held in this case that a justice of the Peace appointed under the Extradition Act XXI of 1879, in and for territories of Mysor had jurisdiction to try, or to commit for trial to the Madras High Court, an European British subject charged with an offence under the Mysore Mines Regulation, but which was not an offence under the Penal Code

Rule:—"Rule shall mean a rule made in the exercise of a power conferred by any enactment and shall include a regulation made as a rule under enactment." *Vide* S 3 (47) General Clauses Act X of 1897 Rules are not *ultra vires* where rule making authority is not shown to have no authority, not only under the Act but under any law whatever, 88 I C 28

CHAPTER II.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF FOREIGN STATES.

3. Requisition for surrender.—(1) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in or who is suspected of being in British India, the Government of India or the Local Government, as the case may be

may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

(2) **Summons or warrant for arrest.**—The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue.

(3) **Inquiry by Magistrate.**—When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

(4) **Committal**—If the Magistrate is of opinion that a *prima facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

(5) **Bail.**—If the Magistrate is of the opinion that a *prima facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

(6). **Magistrate's report.**—The Magistrate shall report the result of his inquiry to the Government of India or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may

desire to submit for the consideration of the Government

(7). Reference to High Court if Government thinks necessary—If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order and the fugitive criminal shall not be surrendered until such question has been decided

(8) Warrant for surrender—If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

(9) Lawfulness of custody and re-taking under warrant for surrender—It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape

(10) Discharge of fugitive criminals committed to prison after two months—If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

CLAUSE (1)

Application of Chapter II.—By an order in council dated the 7th March 1904, which was issued in virtue of powers conferred by S 18 Extradition Act 1870 (33 and 34 Vict Ch 52), Chapter II of the Indian Extradition Act, XV of 1903, has been declared to have effect in British India as if it were part of the Extradition Act, 1870. *Vide Gazette of India*, 1904, Part I, p 363

Requisition:—(1) It is not necessary that requisition should be in any particular form. 52 C 319

(2) It should be accompanied by some evidence that the fugitive offender has committed an extradition offence

(3) The requisition must be made to Government of India or Local Government. A requisition made to a District Magistrate direct is illegal and need not be complied with. *Jai Pal Bhagat v. Emperor* 1922 Pat 442—1 Pat 57, *Guli Sahu v Emp* 41 C 400, *Dadiprasad v District Magistrate Yeotimal*, 1924 Nag 313=25 U L J 346.

(4) It may be made by diplomatic representative of a foreign state recognized by the Government of India as the Consul General, Consul or Vice-Consul or (if the fugitive criminal has escaped from a colony or dependancy of the foreign state on behalf of which the requisition is made) as the Governor of such colony or dependency, *cf.* S 17 (1) Extradition Act 1870. According to S 7 Extradition Act 1873 (36 and 37 Vict Ch 60). A Consul or Vice-Consul shall be deemed to include any person recognized by the Governor of British Possession (*eg*, Government of India) as a Consular Officer of the Foreign State.

Foreign State:—See S. 2 (c) *supra* and notes there under.

Local Government:—“Local Government shall mean the person authorized by law to administer executive Government in the part of British India in which the Act or Regulation containing the expression operates and shall include a Chief Commissioner.

The requisition for surrender of a fugitive criminal must be made to Government of India or Local Government and not to a District Magistrate 1 Pat 57. If the requisition is made to *Government of India*, the *Local Government* cannot issue warrant 39 C 164.

Fugitive Criminal of that State.—(1) According to S 26 Extradition Act 1870 a “Fugitive Criminal” means any person accused or convicted of an extradition Crime Committed within the jurisdiction of any foreign State who is in or is suspected of being in some part of Her Majesty’s dominions, and the term “Fugitive Criminal of Foreign State” means a fugitive criminal

desire to submit for the consideration of the Government.

(7). Reference to High Court if Government thinks necessary.—If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order and the fugitive criminal shall not be surrendered until such question has been decided.

(8) Warrant for surrender.—If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

(9) Lawfulness of custody and re-taking under warrant for surrender.—It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (8), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

(10) Discharge of fugitive criminals committed to prison after two months.—If such a warrant as is prescribed by sub-section (8) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (4), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

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Fugitive Criminal of that State. "According to S 26

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being in some part of Her Majesty's dominions; and the term

'Fugitive Criminal of Foreign State' means a fugitive criminal

accused or convicted of an extradition Crime Committed within the jurisdiction of that state

(2) 'A Fugitive Criminal' includes a person convicted and sentenced for an extradition offence by a foreign court and who has been released before the termination of his sentence with a liability to be called on to serve the residue of his term *In re Calberla* (1907) 2 K. B. 861

(3) A fugitive offender need not be a subject of the State which demands his extradition. A naturalized subject of United States who committed a crime in Holland was extradited from Holland by the Government. Held if there be no treaty between the two countries, the extradition will prevail and the fugitive will be returned. *Ganley v. United States* 9 Q. B. D., 93

In re Charles Wells (1912), 2 K. B. 578

(4) It is not necessary that the person accused of an extradition crime should have committed the offence at the time the offence was committed. It is sufficient if he committed it by false pretences. *Ex parte Moseley* (1915), 2 K. B. 698. Held, he was a fugitive criminal within the meaning of the Act. *R v. Mollins*, 53 L. J. M. C. 517

(5) A person who is convicted and sentenced to imprisonment for an extradition crime and escapes from Jail before the expiry of sentence is a fugitive criminal.

Ex Parte Moser, (1915), 2 K. B. 698

(6) **Fugitive Criminal — Abettor:**—If a person residing in a foreign country and is seeking to escape from that country into England he is a fugitive criminal. *Ex parte Godfrey* (1923) 1 K. B. 24

Accessories:—Accessories before or after the fact to any extradition crime are liable to be apprehended and surrendered in the same manner as principal offender.

See S. 3 Extradition Act 1873 (36 and 37 Vict. Ch. 60) and *Ex parte Godfrey* (1923) 1 K. B. 24

Extradition Offence—See Notes under S. 2 *Supra*

May issue an order—(1) The Local Government has discretion to issue an order to the Magistrate. But if there is a treaty to that effect the Local Government is bound to comply with it.

(2) The only Government competent to issue the order for enquiry is the Government to which the Foreign State has made the requisition. This function must be strictly performed and cannot be delegated. *In re Pirollet Stallman* 39 O. 164 (187) (Mooker-

jee J.) The order will be to a Magistrate who has jurisdiction to inquire into the crime of the nature of that for which extradition is sought 39 C 164 (167)

CLAUSE (2)

Warrant.—The Magistrate will issue summons or warrant according to the particular facts of the case, having regard to the provision of Schedule II of Criminal Procedure Code, which provides whether a summon or warrant will ordinarily issue in the first instance. The warrant need not describe the offence with great strictness, but charge may be mentioned in general terms *Ex parte Terraz* (1878) 4 Ex. D. 63, *Ex. Parte Piot* (1883), 48 L. T. 120

CLAUSE 3

Competency of Magistrate:—(1) The Magistrate whom the local Government issues an order under S. 3 (1) or who inquires a case under cl. 3 is one who has jurisdiction to inquire into the crime of the nature of that for which extradition is sought. He is not disqualified merely because the accused resided beyond his jurisdiction 39 C 164—167, 4 C. 31.

(2) The competency of the Magistrate to hold an inquiry under S. 3 (3) depends on the authorisation of the Executive Government. The words "local limit" in clause (1) do not refer to the territorial jurisdiction of the Magistrate selected by Government to conduct the inquiry, for "any Magistrate" may be so authorized if he be a first class Magistrate or a Magistrate empowered by the local Government in that behalf. 38 C. 547 (351).

(3) The Magistrate has power under S. 5 of the Extradition Act 1873 to compel the production of sealed packets held by the bank upon the terms that it shall not be delivered up except with the consent of the depositor. *R v. Dye*, (1908), 2 K. B. 333.

(4) A Magistrate has power to issue summons for the production of documents relevant to a matter then pending in Italian courts *Ex parte Lewis*, [1922], 2 K. B. 777.

Arrest:—Any irregularity in the original such as the want of a warrant or the absence of in the local limits of the Magistrate's, the issue of the warrant, provided that are right and valid. *In re Stallman* 9 Q. B. D. 701. The substantial was brought before the Court but quires into the case had

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Reg v. Lopez, 1858, L

Evidence and inquiry—(to be placed before the

corpus on the ground that there was evidence to show that he was not the person whose arrest was required. *Held* that Magistrate's action could not be reviewed, but that the matter could be dealt with under the Extradition Act by the Secretary of State. *King v. Governor of Brixton Prison* (1924) 1 K B 455.

(3) There must be *prima facie* proof of the guilt of the accused given before the Magistrate according to the rule of evidence. It includes documents mentioned above.

(4) Subject to special rules of evidence contained in the Extradition Acts, the evidence must be given in accordance with the provisions of Indian Evidence Act (1 of 1872). The Indian Evidence Act does not contain the whole law of evidence in force in British India. S 2 of the Evidence Act 1872 saves certain rules of evidence. The English Extradition Act which is applicable to this country is part of the *Lex fori*. *In re Rudolf Stallman* 39 C. 164.

(5) The Procedure to be followed in the inquiry to be held by the Magistrate is that prescribed for the trial of cases triable by Court of Session and High Court, contained in Chapter XVIII of the Code of Criminal Procedure (V of 1898).

(6) Mere irregularities in the proceedings of a Magistrate which are unimportant in regard to the sufficiency of the proceedings are not reviewable, but where the objections are to the reception of evidence which if allowed, would leave no residuum of evidence upon which the report could be supported, the proceedings may be questioned.

In re Stallman, 39 C 164

(7) The question whether there was sufficient evidence or not upon which the Magistrate made report or committed the accused to prison, cannot be attacked in High Court. *Tops v Emperor* 46 C. 52, *Ex parte Perry* (1924) 1 K B 455.

Defence of accused:—If the Magistrate does not give the report of defence, this is not a mere irregularity. It is a jurisdiction of the Magistrate 39 C. 164. "Magistrate to hear evidence tendered on behalf of the fugitive criminal. *R. v. Zossenheim* (1903), 20 T L R 121.

Accused can lead evidence to prove —

(1) An alibi *R. v. Allen and Taylor* (1883) cited in Clarke on Extradition, 4th Ed. P 252.

(2) That he is an European British subject *see* notes under S 2 (a) *Supra*. Evidence of nationality is admissible. *Re Guerin* (1888) 58 L J. (M C) 42.

(3) That the offence is not an Extradition offence. *Vide* S. 3 (3) Extradition Act (1903).

See S. 2 (b) and notes thereunder.

(4) That the offence is of Political character *Vide* S 3 (3) Extradition Act 1903 *See notes infra.*

(5) That the terms of Treaty with the foreign state do not cover such a case *Vide* S 18 Extradition Act 1903 and S 19 Extradition Act 1870 *See Jas Gopal Bhagat v Emperor* 1 Pat 57, 1922 Pat 442

(6) That no *prima facie* case is made out.

(7) That the requisition for his surrender has in fact been made with a view to try or punish him for a different offence of a political character *Vide* S 3 (1) Extradition Act 1870 (33 and 34 Vict Ch 52)

(8) That he should be given the benefit of Provision of the Treaty with the Foreign State that high contracting "parties are not bound to surrender their own subjects" *Moonga Lal Kiot and others v Emperor* 12 Pat. 347, 1933 Pat 295 *In re Wilson* (1877) 3 Q B D 42 44 W R 313

(9) That requisition was made to the District Magistrate and not to the local Government and hence illegal 1 Pat 57, 1922 Pat 442, or that the requisition was made to Government of India by the Foreign State, but it has delegated its powers to the local Government which it could not do so under S 3 (1), Extradition Act 1903 *In re Rudolf Stallmann* 39 C. 164

(10) That there is a state of war with the Foreign state and hence there can be no extradition proceedings between the belligerents and that all the Extradition Treaties thereby have come to an end

Identity of accused — See notes under this section under the heading "Evidence and inquiry" (e)

Offence of Political character — (1) An offence is of Political character if it is one which is incidental to or forms part of, Political disturbances, *Re castions* (1891) 1 Q B, 149 In this case there of Tic the Canton of hot one Reni a mem he offence was of a Political character But crimes committed by anarchists are not regarded as political offences, as, in order to constitute an offence of political nature there must be two or more parties in the state each seeking to impose the Government of their own choice as the other, and the act done must be committed not for private or personal reasons, but in pursuance of that object. *Re Meunier* (1894) 2 Q B 415.

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1903, S. 9 Extra-

(3) Accused can prove to the satisfaction of the Magistrate or the Local Government that the requisition for his surrender has been made with a view to try or punish him for an offence of Political character

A plea that demand is not made in good faith or in the interest of justice can only be addressed to the Government, for the Courts will not permit arguments on the point that a friendly state is not acting in good faith in making such a requisition. That is not a question which the judicial authorities have power to entertain *per Russell C. J. in re Arton* (1896), 1 Q. B. 108 at P. 115.

4 The decision of the Magistrate upon the question whether the offence is of political character or not is not binding upon the High Court either in law or fact *R v Holloway Prison (Governor)* (1902), 71 L. J. (K B) 935 and *Re Castion* (1891) 1 Q B 149.

CLAUSES (4), (5)

Prima facie case:—(1) The evidence discloses a *prima facie* case when it is such that if unrebutted and if believed, it will be sufficient to prove the case against the accused. *Sher Singh v Jitendranath Sen*, 33 Cr L J 3, 134 L. C 1045, A. I. R. 1931 C 607, per Lord Villams J

A *prima facie* case is not the same thing as "Proof which comes later when the Court has to find whether the accused is guilty and is nothing but belief according to the conditions laid down in the Evidence Act. A Magistrate finding a *prima facie* case can not therefore be said to believe the case to be true in the sense that the case is proved (*ibid*), (2) Cf section 10 of the Extradition Act 1870. Such evidence (subject to special provisions of the Act) as in the case of a fugitive criminal accused of an extradition crime would justify his commitment for trial, if the crime had been committed within the local limits of the magistrate's jurisdiction, or in the case of a fugitive criminal alleged to have been convicted of an extradition crime would amount to proof of such conviction

Commit to prison:—(1) There must be some evidence that the prisoner committed the extradition crime within the jurisdiction of the country seeking extradition to justify the magistrate in committing the prisoner. *R v Holloways Prison (Governor)* (1902) 18 T L R. 475

(2) Detention of a fugitive offender pending the consideration of the report of the investigating magistrate by the Government is not illegal 46 C 5.

(3) When the Magistrate commits the fugitive prisoner under sub-section (4) such criminal can not be

until the expiration of fifteen days from the date of his being committed to prison. *Vide* S 30 Extradition Act 1870

Warrant of commitment signed by successor of Magistrate.—A party of nine men landed in Trinidad from a boat and came from the French Penal settlement. The party was arrested under French Guiana Extradition ordinance and brought before a Magistrate, who after enquiry detained them in custody till the Governor's pleasure was known. They were subsequently tried for being fugitive criminals from French Guiana. The order for detention was not made by the Magistrate who heard the case but by his successor *Held*, that his successor was no better than a stranger and his order was illegal *Kosseke Chatko v. Attorney General for Trinidad* 1932 A C 78, 101 L G. P. C. 17.

Bail :—(1) The accused is entitled to be released on bail if the case is one which is shown as bailable in Schedule II of the Criminal Procedure Code (Act V of 1898) or when no *prima facie* case is made out against him by the evidence produced before the Magistrate.

(2) The Act provides for the bail to be furnished by the accused person, which is governed by Criminal Procedure Code (V of 1898). The High Court has fullest discretion in the matter of bail. 15 C W. N 736, 12 C. R L J. 358.

(3) The Magistrate before whom a fugitive criminal is brought may admit him to bail pending inquiry. This inherent power to admit to bail is historical, and has long been exercised by the Court, and if the legislature had meant to curtail or circumscribe this well known power, their intention would have been carried out by express enactment. *R v. Spilsbury* (1898), 2 Q. B. 615 per Lord Russel of Killowen, C J at p 622.

“ . . . the Fugitive Offenders Act
“ . . . it would seem that the prin-
“ . . . under the Extradition Acts.”

Transfer of Proceedings:—As the competency of a Magistrate to hold an inquiry under S. 3 of this Act depends on the authorisation of the Executive Government, the High Court has no power to order the transfer of the inquiry. 38 C. 550, *See* 46 C. 31.

Remand:—The Magistrate has power to adjourn the hearing and give remand. In the treaty with Germany remand for more than two months can not be given. But where sufficient evidence for extradition upon one charge is given within the two months, the Magistrate may proceed even after that time to consider other charges against the prisoner and commit him upon all of them. *Re-Bhulm* (1901) 1 K B. 764.

CLAUSES (6) to (9)

Magistrate's Report:—The magistrate after making the report to the local Government about the result of his inquiry becomes *functus officio*. *In re Stallman* 39 C 164 (193) *The Queen v Lushington ex parte Otto* (1894), 1 Q B 420. The detention of the fugitive offender pending the consideration of the report of the investigating Magistrate by the Government is not illegal. *A C Tops v Emp* 46 C 52.

Reference to High Court—Habeas corpus:—(1) S 11, Extradition Act 1870 (33 and 34 Vict, Ch 52) provides that if a police magistrate commits a fugitive criminal to prison he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days and that he has a right to apply for a writ of *habeas corpus*. But no specific provision is made in Indian Extradition Act 1903 in such clear terms.

The report of select committee on the Bill dated 16th September 1903 says that The provision made in sub clause (6) and (7) are intended as the Indian substitute for the right to apply for a writ of *habeas corpus* given to a fugitive criminal by S 11 of the Statute. Although report of the select committee can not be used for ascertaining the meaning of the enactment, which must be gathered from the enactment itself (*vide Administrator General of Bengal v Prem Lall* 22 C 798) yet the above passage shows the intention of the Legislature on the point.

2 S 15 of the Charter Act gives High Court 'Superintendence over all courts which may be subject to its appellate jurisdiction'. The District Magistrate acting under Extradition Act is not subject to any appellate jurisdiction. He makes inquiry and reports the result to Government. His Powers are specially conferred for the limited purposes of the Act. No appeal lies to the magistrate may arrive at it therefore revise the 4 to this Act. *Stallmann of note*). See also 39 C

164 and 16 Cr L J 31

3 The High Court has jurisdiction under S. 491 Cr P C to give a direction in the nature of *Habeas Corpus* and to examine whether a person detained in Public custody under this Act is legally detained. The High Court however will not sit in appeal, to review and weigh evidence if there should be some evidence of the offence upon which the Magistrate may reasonably act. If there is no evidence the High Court will interfere. *In re Stallmann* 39 C 164. The special procedure provided by Ss 3 (6) and 7 of the Act, takes the place of that indicated in S 491 of the Code of Criminal Procedure Code which gives direction of the nature of *Habeas corpus*. *Rudolf Stallmann v Emperor* 38 C 547. It was

until the expiration of fifteen days from the date of his being committed to prison. *Vide* S 30 Extradition Act 1870

Warrant of commitment signed by successor of Magistrate.—A party of nine men landed in Trinidad from a boat and came from the French Penal settlement. The party was arrested under French Guiana Extradition ordinance and brought before a Magistrate, who after enquiry detained them in custody till the Governor's pleasure was known. They were subsequently tried for being fugitive criminals from French Guiana. The order for detention was not made by the Magistrate who heard the case but by his successor. *Held* that his successor was no better than a stranger and his order was illegal. *Kosseke Chatko v Attorney General for Trinidad* 1932 A C 78, 101 L G P. C 17

Bail :—(1) The accused is entitled to be released on bail if the case is one which is shown as bailable in Schedule II of the Criminal Procedure Code (Act V of 1898) or when no *prima facie* case is made out against him by the evidence produced before the Magistrate

(2) The Act provides for the bail to be furnished by the accused person which is governed by Criminal Procedure Code (V of 1898). The High Court has fullest discretion in the matter of bail. 15 C W N 736, 12 C. R. L. J 308.

(3) The Magistrate before whom a fugitive criminal is brought may admit him to bail pending inquiry. This inherent power to admit to bail is historical, and has long been exercised by the Court, and if the legislature had meant to curtail or circumscribe this well known power, their intention would have been carried out by express enactment. *R v. Spilsbury* (1898), 2 Q B 615 per Lord Russell of Killowen, C J at p 622

' ' ' ' ' the Fugitive Offenders Act
it would seem that the prin
under the Extradition Acts

Transfer of Proceedings:—As the competency of a Magistrate to hold an inquiry under S 3 of this Act depends on the authorisation of the Executive Government, the High Court has no power to order the transfer of the inquiry. 38 C 550, *See* 46 C 31.

Remand:—The Magistrate has power to adjourn the hearing and give remand. In the treaty with Germany remand for more than two months can not be given. But where sufficient evidence for extradition upon one charge is given within the two months, the Magistrate may proceed even after that time to consider other charges against the prisoner and commit him upon all of them. *Re Bhulm* (1901) 1 K B 764.

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held in 39 C 161 by Woodroffe J and Mukerji J that the power of reference provided by S 3 (7) of the Act cannot be regarded as substitute for the right to a writ of *habeas corpus*. They refer to *Crowley's case* (1818), 2 Swans 1, *Ex parte Besset*, (1814), 6 Q B 481, and in *re Siletti* (1902), 71, L J K B, 935 in support of the contention that the Extradition Act 1870 merely declared a right (to the writ of *habeas corpus*) that existed independently of the statute.

4 The absence of jurisdiction in the High Court to interfere in revision with the orders passed by Magistrate in execution of the warrant issued by a Political Agent does not in any way conflict with its power to interfere otherwise than by revision. The power of the Court to interfere under S 491 Cr P C to issue writ of *habeas corpus* is untouched, as that is a power not created by this Act or exercisable by way of revision, but vested in Presidency Courts to protect the liberty of the subject
 asion of deprivation
 1, 16 Cr L J 81,

it was held, that the execution by District Magistrate of a warrant in British India under S 7 Extradition Act is not an executive Act. The order of the Magistrate is subject to the revisional powers of the High Court, as the Magistrate has judicially to consider the matter and decide whether the warrant can be executed according to law. The order can also be interfered with under S 561 A Cr P C on proper proceedings being taken. High Court can also interfere under S 491 Cr P C. In *re Bai Aisha* 53 B 149, 1929 B 81, that 42 C 793 held too widely stated, 7 Bom. L R 463, 41 C 400 and 1922 Pat 442=1 Pat 57 Rel on.

(5) The decisions of both the English and the Indian Courts are uniform on the point that the sufficiency of evidence cannot be attacked in the High Court. 'The question before us is not as to the weight of evidence but only whether there was evidence. *The King v Godfrey* (1923), 1 K. B 24. "Where the evidence is such that the Magistrate is entitled to commit this Court will not review his decisions because of evidence adduced since the Committal. *Per Hebert C J in The King v Governor of Brixton Prison Ex parte Perry* (1924) 1 K B 405

Similarly Chaudhari J in *Tops v Emperor* 46 C 52 remarked "I have been asked to deal with the evidence upon which the Magistrate has made his report it being said that the conclusions he has arrived at are wrong. I do not think I can question the report he has made. It is within his rights to make such a report as he thinks justified by him.

(6) High Court has no power to investigate the proceedings of a Political Agent who issued a warrant of arrest under S 7 *Jamna v. Emperor*, 1926 Sind 126=27 Cr. L J 87=91 I C 69

Restrictions on surrender:—No surrender shall be made

(1) If the offence is one of political character, *vide* S 3 (1) Extradition Act 1870 and S 3 (3) Indian Extradition Act 1903, or

(2) Where the offence is not an extradition offence *See* 1 Pat 57

(3) Where the treaty with the foreign state does not provide for such a surrender

Thus when there was a treaty between England and Switzerland to the effect that no subject of the United Kingdom should be surrendered to Switzerland, a British subject could not be surrendered though otherwise the condition required by the Act might have been complied with *R Wilson* (1877) 3 Q B D 42.

(4) That the law of the Foreign State or the Treaty must provide that the person surrendered is not to be tried for any offence in that state prior to the extradition crime, proved by the facts on which the requisition for surrender is grounded. *Vide* S. 3 (2) Extradition Act 1870

(5) A person under trial or undergoing a sentence is not to be surrendered till the termination of his trial resulting in acquittal or the expiry of his sentence, as the case may be *Vide* S 3 (3) Extradition Act 1870

ings, the fugitive had become by the law of the foreign country exempted from prosecution by reason of lapse of time *R v Brixton Prison (Governor) Ex parte Vander Auwera*, (1907), 2 K. B 157

(6) Where by the treaty with the foreign state the "High Contracting Parties are not bound to surrender their own subjects" *In re Wilson* (1877), 3 Q B D 42, 44 W R. 313, *Moonga Lal, Keot and others v Emperor* 12 Pat 317, 1933 Pat 290

(7) Where the fugitive criminal is charged with two offences one of which is not an extradition crime, the Magistrate must make it clear that the crime in respect of which the prisoner is committed for extradition is that which is an extradition crime *R v. Dix* (1902) 18 T L R. 231.

(8) When a fugitive offender is demanded by more than one foreign state, the claims rank in the order of their reception. *R v Kams* (1900)

Trial of extradited from whether for different offence—loyal.

The accused was arrested in Paris on a warrant issued by Magistrate in Great Britain on charges of obtaining sums of

by false pretences and brought before a French court. After five hearings the accused was sent in custody to Bologne and was handed over to British Police Officer. The French Government wrote to the British Government that accused wanted to be sent back without fulfilment of extradition formalities. He was tried on the same facts on which his arrest was ordered but was convicted not for obtaining money by false pretences but for fraudulent conversion. *Held* that S. 19 of Extradition Act 1870 is not repealed by Art 4 of the Treaty between England and France and therefore the conviction was valid. *Held*, further, that the onus of proving that extradition proceedings were taken against the accused and that he was surrendered under the extradition law is upon the accused. In the absence of evidence of such surrender the finding that he returned voluntarily although in custody is correct, and he must face in this country any charges made against him. *R v Corrigan*, 100 L. J. K. B. 55.

Corpus delicti:—Most treaties contain a provision for the return of the *Corpus delicti* as well as other articles which are required as proof in the trial held in the foreign state. The magistrate has ample power under the Criminal Procedure Code in this respect. Where a fugitive offender arrested in England on extradition warrant for offences committed in Belgium became bankrupt in England, the property found on him at the time of his arrest vests in his trustees and the Secretary of State should stipulate for the return of property after the conclusion of trial in Belgium, which it may be used as a piece of evidence. *In re Borowoky and Weinbaum Ex parte Solomen*, 2 K. B. (1902) P. 312

CLAUSE 10.

Bail:—Where High Court has no jurisdiction of superintendence it has no authority to grant bail 45 C. 31.

4. (1) Power to Magistrate to issue warrant of arrest in certain cases.—Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a kind which he thinks fit, issue a warrant for his arrest, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

(2) **Issue of warrant to be reported forthwith**—The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

(3) **Person arrested not to be detained unless order received**—A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

(4) **Bail.**—In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted

Scope of Section:—(1) This section does not contemplate any inquiry, it provides for *ad in terim* arrest of the alleged fugitive criminal so as to render effective the proceedings under S. 3 when they are subsequently instituted. An arrest under S. 4 may be effected before the receipt of the requisition from a Foreign Government mentioned in S. 3, otherwise, the criminal might escape if the receipt of the requisition in the usual diplomatic way had to be awaited in every case. S. 3 and S. 4 do not overlap each other, as soon as arrest has been effected under this section, and the question of bail or detention has been determined its operation for all purposes is exhausted. There is no conceivable reason why thereafter a proceeding under S. 3 should not be instituted. *In re Stallman* 39 C 164. A similar provision is made in S. 8 (2) Extradition Act 1870 (33 and 34 Vict Ch 52)

Procedure:—(1) The Magistrate can act under this section either on a complaint or a police report or in the last resort on his own knowledge or suspicion, but as a rule a sworn statement about the reasonable suspicion of the commission of crime and guilt of accused should be required before issue of warrant. The information must purport to be based upon a letter or telegram from a diplomatic, Judicial or public authority of the state, stating the offence charged, the issue of warrant for fugitive's arrest and that extradition will be demanded.

The Magistrate should report to the government through District or Chief Presidency Magistrate, the fact of the issue of

by false pretences and brought before a French court. After five hearings the accused was sent in custody to Bologne and was handed over to British Police Officer. The French Government wrote to the British Government that accused wanted to be sent back without fulfilment of extradition formalities. He was tried on the same facts on which his arrest was ordered but was convicted not for obtaining money by false pretences but for fraudulent conversion. *Held* that S. 19 of Extradition Act 1870 is not repealed by Art 4 of the Treaty between England and France and therefore the conviction was valid. *Held*, further, that the onus of proving that extradition proceedings were taken against the accused and that he was surrendered under the extradition law is upon the accused. In the absence of evidence of such surrender the finding that he returned voluntarily although in custody is correct, and he must face in this country any charges made against him. *R. v. Corrigan*, 100 L. J. K. B. 55.

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4. (1) Power to Magistrate to issue warrant of arrest in certain cases.—Where it appears to any Magistrate of the first class or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

(2) **Issue of warrant to be reported forthwith**—The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

(3) **Person arrested not to be detained unless order received**—A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (1).

(4) **Bail.**—In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Scope of Section:—(1) This section does not contemplate any inquiry, it provides for *arrest in term* arrest of the alleged fugitive criminal so as to render effective the proceedings under S. 3, when they are subsequently instituted. An arrest under S. 4 may be effected before the receipt of the requisition from a Foreign Government mentioned in S. 3, otherwise, the criminal might escape if the receipt of the requisition in the usual diplomatic way had to be awaited in every case. S. 3 and S. 4 do not overlap each other, as soon as arrest has been effected under this section, and the question of bail or detention has been examined, its operation for all purposes is exhausted. There is no conceivable reason why thereafter a proceeding under S. 3 should not be instituted. *In re Stillman* 39 C 164. A similar provision is made in S. 8 (2) Extradition Act 1870 (33 and 34 Vict. Ch. 52).

Procedure:—(1) The Magistrate can act under this section either on a complaint or a police report or on the last receipt on but as a rule a sworn statement, the elements of crime and evidence before issue of warrant. The information must purport to be based up on a letter or telegram from a diplomatic Judicial or public authority of the state, stating, the offence charged, the issue of warrant for fugitives arrest and that extradition will be demanded.

The Magistrate should report to the government through District or Chief Presidency Magistrate the fact of the issue.

provisional warrant, together with copies of evidence and information, and the fugitive so arrested should not be detained for more than two months, unless in the interval the Magistrate receives the order of Government as stated in the foregoing paragraph. An arrest otherwise than under S. 3 (2) or S. 4 (1) of this act must not be had except in the most urgent and exceptional cases, and if a person is so arrested under the ordinary law, a warrant under S. 4 (1) should be obtained at the earliest opportunity. The Magistrate must, after arrest under S. 4 (1) of the Act, proceed as provided in S. 3 (3) (5) and submit a report to Government as required by Sub-Section (6) through the District Magistrate or the Chief Presidency Magistrate. After Committal to Jail a prisoner should not be released except on Government Order under S. 3(8) or S. 5 or upon discharge by High Court under S. 3 (10) of the Act, and such order of discharge will be issued only when proceedings against the fugitive are delayed.

Magistrate and Police Officer. In cases in India, as justified by the treaty with the state, will instruct the Resident or Political Agent to obtain offender's arrest and surrender him. A full statement of the expenses incurred for arrest and detention should be submitted by the Magistrate to Government, whether the proceedings terminated in the ultimate release or surrender of the accused. *See Madras Extradition Manual, 1911.*

(2) In England the consul or other accredited representative usually lays the information and produces the document. In India a complaint by Police Officer together with the production of documents on which it is founded is provided by the Act.

(3) The issue of a warrant under S. 4 is a matter for the judicial discretion of the Magistrate. *R. v. Weil*, 9 Q. B. D. 701. Jessel, M. R. remarked:—"There must be some evidence but very little will do as it is merely for the purpose of detaining the man."

(4) Where a warrant of arrest was issued for a non extraditable offence (escaping from lawful custody) but was issued on a petition charging him with theft, *held*, that High Court could not release him on bail, 46 C 31.

(5) The Magistrate who is authorized to hold an enquiry under this Act is not subject to appellate jurisdiction of the High Court. *S. Rudolf v Emperor* 38 C. 547, but Sec. 14 Cr. L. J. 673.

5. (1) Power of Government to refuse to issue order under section 3 when crime of political character.—If the Government of India or any Local

Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (1).

(2) Power of Government to discharge any person in custody at any time.—The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

Notes:—This section reproduces the provisions of Ss. 3 and 7 of the Extradition Act 1870 (33 and 34 Vict., Ch. 52). As to what is an offence of political character *See notes under S. 3 (3) of this Act.*

6 References to "Police Magistrate" and "Secretary of State" in section 3 of The Extradition Act, 1870.—The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870, shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

7. (1) Issue of warrant by Political Agents in certain cases.—Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in British India, and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, * [or if

*The words included in square brackets were inserted by the India Extradition (Amendment) Act, 1913

such person is believed to be in any Presidency-town to the Chief Presidency Magistrate of such town,] for his arrest and delivery at a place and to a person or authority indicated in the warrant such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

(2) **Execution of such warrant**—A warrant issued as mentioned in sub-section (1) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and accused person, when arrested, shall * [be produced before the District Magistrate or Chief Presidency Magistrate, as the case may be who shall record any statement made by him; such accused person shall then,] unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

(3) **Proclamation and attachment in case of persons absconding.**—The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate [or Chief Presidency Magistrate] under this section as if the warrant had been issued by himself.

Application of Chapter III—Chapter III of the Extradition Act 1903 applies to states which fall into two classes—

(a) Those in which there is a Political Agent.

(b) Those in which there is no Political Agent.

Two methods are open to states of the class mentioned in (a) for securing the surrender of fugitive criminals:—

(1) By a warrant issued by Political Agent under S. 7 (1) where the offence is one mentioned in the schedule as extradition offence.

(2) By a requisition of the state through a Political Agent under S. 9 for any offence whether it is extradition offence or not.

* The words in square brackets were inserted by sub section (3) of section 2 of the Indian Extradition (Amendment) Act, 1913.

The only section to which the states mentioned in class (b) can resort to is S 9 Extradition Act, by which the surrender of a person can be secured

Analogous Law—This special provision modifies in British India the general rule laid down by S 17 (2) Extradition Act 1870 (33 and 34 Vict Cl 52)

Presidency Town—The words by S 2 of the Indian Act remove doubts as to applicability of this section to the execution of warrants in the Presidency towns

Extradition offence—Treaty—See notes under S 2 *Supra*

(1) Absconding from jail is not one of the offences mentioned in the first schedule. Therefore S 7 has no application and a warrant issued by the British Envoy at the Court of Nepal for the arrest is without jurisdiction. *Jai Gopal Bhagat v Emperor*, 1 Pat 57, 1922 Pat 442, 66 I C 517

(2) If the offence is mentioned in the schedule but not in the Treaty, the fugitive criminal can be surrendered. But if the treaty prohibits extradition for offences such a provision overrides the provisions of the schedule by virtue of the provisions of S 18 of the Act. It was pointed out in 1 Pat 57 by *Jocala Prasad, J* that if the treaty between British and Nepal Governments prohibits extradition for offences not specified therein, such prohibition overrides the provisions of the schedule by virtue of S 18 but there is no such prohibition in the Treaty dated the 10th February 1855 (supplemented by memorandum) dated 24th June 1881, and therefore S 9 does not in any way derogate from the provisions of the treaty. The Act practically enhances the power of the Nepal Government to requisition the authorities in the British territory to arrest and deliver fugitive offenders of their territory

(3) If the offence is included in the schedule and not in the Treaty with the State the State can take advantage of the schedule and get the accused extradited. *In re Murli Dhar Bhagwan Das* 43 B 310 (320). The converse case of an offence included in the Treaty but not in the schedule has been referred to above in *Jai Gopal Bhagat v Emperor*, 1 Pat 57.

Political Agent—The term Political Agent is defined in S 3 (40) General Clauses Act X of 1897 which includes—

- (a) The principal officer representing the Government in any territory or place beyond the limits of British India and
- (b) Any officer of Government of India or of any local Government appointed by the Government of India or the local Government to exercise all or any of the powers of a political agent for any place not forming

by a Political Agent which was plainly illegal. But in *Jaspal Bhagat v Emperor* 1922 Pat 412, 1 Pat 57 Jawal Prasad J. held that although S 15 empowers the Local Government to stay, proceedings taken under Ch 3 of the Act and to direct any warrant to be arrested discharged, this High Court to interfere in it has not been taken under a valid warrant. Supposing a warrant issued by a Political Agent for an offence which is included in the schedule,

warrant is illegal as it is without exception and therefore the

53 B 149, 1929 B 1

were considered, it

execution by the District Magistrate or the Chief Presidency Magistrate in British India of a warrant under S 7 of Extradition Act is not an executive act. The Magistrate has judicially to consider the matter and decide, whether the warrant can be executed according to law and that the order of the Magistrate is subject to revisional powers of the High Court. It was further held that 42 C 793 was too widely stated

(2) In 3 P. R. 1909 Cr. Punjab Chief Court held that it had no power to interfere in respect of a warrant issued by a Political Agent of a Native State under S 7 of the Act on the ground either (1) that there is no *prima facie* case against the petitioner, or (2) that the circumstances under which the officer was originally moved, do not justify him exercising his power under the said section. The same view was taken in 19 C. W. N 221, 16 Cr. L J. 31. S 7 lays down that the Magistrate to whom the warrant is addressed shall Act in pursuance thereof and does not require him to take evidence, hence it is no part of his duty to ascertain whether the warrant issued under S. 7 was a legal warrant. *Hans Raj v. Crown* 7 L 159

High Court's Powers—Habeas Corpus. (S. 491 Cr. P. C.—See Notes under S 3 cl. (6 9) under the heading "Reference to High Court")

High Court's Powers—Inherent Powers. 561-A. Cr. P. C.—The warrant under S 7. The order of the Magistrate with under S. 561-A. Cr. P. C. by the High Court in the exercise of its inherent powers. In *re Bn Aisha* 53 B 149—42 C. 793 d.

Trial of extr

offence

The only section to which the states mentioned in class (b) can resort to is S. 9 Extradition Act, by which the surrender of a person can be secured

Analogous Law:—This special provision modifies in British India the general rule laid down by S 17 (2) Extradition Act 1870 (33 and 34 Vict., Cl 52).

Application of Section to Presidency Town:—The words "*Chief Presidency Magistrate*" were inserted by S 2 of the Indian Extradition (Amendment) Act, 1 of 1913, to remove doubts as to applicability of this section to the execution of warrants in the Presidency towns

Extradition offence—Treaty —See notes under S. 2. *Supra*

(1) Absconding from jail is not one of the offences mentioned in the first schedule. Therefore S 7 has no application and a warrant issued by the British Envoy at the Court of Nepal for the arrest is without jurisdiction *Jai Gopal Bhagat v Emperor*, 1 Pat 57, 1922 Pat 442, 66 I C 517.

(2) If the offence is mentioned in the schedule but not in the Treaty, the fugitive criminal can be surrendered. But if the treaty prohibits extradition for offences such a provision overrides the provisions of the schedule by virtue of the provisions of S. 18 of the Act. It was pointed out in 1 Pat 57 by *Jwala Prasad, J.* that if the treaty between British and Nepal Governments prohibits extradition for offences not specified therein, such prohibition overrides the provisions of the schedule by virtue of S. 18, but there is no such prohibition in the Treaty dated the 10th February 1855 (supplemented by memorandum) dated 24th June 1881, and therefore S 9 does not in any way derogate from the provisions of the treaty. The Act practically enhances the power of the Nepa Government to requisition the authorities in the British territory to arrest and deliver fugitive offenders of their territory.

(3) If the offence is included in the schedule and not in the Treaty with the State, the State can take advantage of the schedule and get the accused extradited *In re Murlu Dhar Bhagwan Dis*, 43 B. 310 (320). The converse case of an offence included in the Treaty but not in the schedule has been referred to above in *Jai Gopal Bhagat v Emperor*, 1 Pat 57.

Political Agent :—The term Political Agent is defined in S 3 (40) General Clauses Act X of 1897 which includes —

- (a) The principal officer representing the Government in any territory or place beyond the limits of British India, and
- (b) Any officer of Government of India or of any local Government appointed by the Government of India or local Government to exercise all or any of the of a political agent for any place

of British India under the law for the time being in force relating to foreign jurisdiction and extradition

(2) An Extradition warrant signed by the Assistant British Envoy of Nepal Court is not valid as he is not empowered as political agent within the meaning of S 7 *Sadhok Gir alias Pasupati Bharti v Emperor* A. I R 1925 Pat 112, 25 Cr. L J 687, 81 I C 175

(3) If once the political agent has issued a certificate under S 188 Cr P C that accused should be tried in British India, it is not open to him to recall the certificate and direct the accused to be handed over to the Native State for trial 14 Bom L R 377, 13 Cr L J 537, 15 I C 809

(4) When a warrant from the political agent is received, a Magistrate has no discretion in the matter. He can not refuse to act on the ground that there is no prima facie case against the accused or that the political agent has exceeded his powers under this section. S 7 lays down that the magistrate to whom a warrant is addressed shall act in pursuance thereof and does not require him to take evidence, hence it is no part of his duty to ascertain whether the warrant issued under S 7 was a legal warrant. *Hussain v Crown* 7 L 159 *Gian Chand v Emperor* 3 P R, 1909 Cr

(5) High Court has no power to investigate into the proceeding of the political agent who has issued a warrant under S 7. *Jasina v. Emperor*. A. I. R. 1926 Sind 126, 27 Cr L J 37

Magistrate's Powers :—(1) There is no provision in this Act for making an inquiry by a competent British Court in British India as to the legality of the proceedings under Ss 3, 4 and 10. *Hans Raj v. Emperor*. 7 L 159, 1926 L 411, *Gian Chand v Emperor*. 3 P. R. 1909 Cr

(2) Execution by a magistrate in British India of a warrant under S 7 of the Extradition Act is not an executive act. The magistrate has to judicially consider the matter and to decide whether the warrant can be executed according to law. If the warrant is without jurisdiction or there is some other illegality to be found on the face of it, the magistrate in the exercise of his judicial powers may refuse to execute it. *Hussain v. Emperor* 7 L 159, 1926 L 411, *Gian Chand v Emperor*. 3 P. R. 1909 Cr

(3) Execution by a magistrate in British India of a warrant under S 7 of the Extradition Act is not an executive act. The magistrate has to judicially consider the matter and to decide whether the warrant can be executed according to law. If the warrant is without jurisdiction or there is some other illegality to be found on the face of it, the magistrate in the exercise of his judicial powers may refuse to execute it. *Hussain v. Emperor* 7 L 159, 1926 L 411, *Gian Chand v Emperor*. 3 P. R. 1909 Cr

(3) In all cases where inquiries are held by magistrate with a view of extraditing accused persons, it would be desirable that they should if possible, be present thereat. *Emperor v. Husainally* 7 Bom. L. R. 463, 2 Cr. L. J. 449

Validity of Warrant:—The validity of the warrant and its execution can be attacked on the following grounds—

- (a) That it relates to an offence which is not according to the schedule, an extradition offence, *Jai Gopal Bhagat v Emp.* 1 Pat. 57, 1922 Pat 442, 66 I O 517
- (b) That the officer issuing the warrant was not empowered as political agent for the purposes of S. 7 *Radhak Gir alias Pasupati Dharti v Emp.* A I R 1925 Pat. 112, 25 Cr. L. J 637, 81 I C 176.
- (c) That according to treaty with the state the extradition for the offence in question is prohibited 1 Pat. 67, *Jai Gopal Bhagat v Emperor.*
- (d) That the accused being a European British subject, a warrant under S 7 cannot be issued against him, *In re Bai Aisha* 53 B 149
- (e) That the warrant was indefinite The description of the accused was not properly given so that he was not well defined. *Raj Nath v Emperor.* 134 I. C 594=1931 Oudh 394.
- (f) That the Political Agent has not complied with the rules made by the Governor General in Council and

High Court's power—Revision:—(1) It was held in *Sahu v. Emperor*, 42 C 793 that when a warrant is issued by the Political Agent under S. 7 of the Act, its execution by the District Magistrate in British India, in accordance with the Act is an executive act and the High Court cannot interfere in revision with the proceeding of the magistrate and the latter to surrender the fugitive criminal, but if the latter exercises discretion aggrieved thereby, he can invoke the action of the Governor under S. 15 of the Act In *Emperor v. Husainally*, 7 Bom. L. R. 463, 2 Cr. L. J. 449, 1922 Pat. 442, 66 I O 517, 25 Cr. L. J. 637, 81 I C 176, 134 I. C 594, 1931 Oudh 394, 42 C 793, 43 C 100, 43 C 101, 43 C 102, 43 C 103, 43 C 104, 43 C 105, 43 C 106, 43 C 107, 43 C 108, 43 C 109, 43 C 110, 43 C 111, 43 C 112, 43 C 113, 43 C 114, 43 C 115, 43 C 116, 43 C 117, 43 C 118, 43 C 119, 43 C 120, 43 C 121, 43 C 122, 43 C 123, 43 C 124, 43 C 125, 43 C 126, 43 C 127, 43 C 128, 43 C 129, 43 C 130, 43 C 131, 43 C 132, 43 C 133, 43 C 134, 43 C 135, 43 C 136, 43 C 137, 43 C 138, 43 C 139, 43 C 140, 43 C 141, 43 C 142, 43 C 143, 43 C 144, 43 C 145, 43 C 146, 43 C 147, 43 C 148, 43 C 149, 43 C 150, 43 C 151, 43 C 152, 43 C 153, 43 C 154, 43 C 155, 43 C 156, 43 C 157, 43 C 158, 43 C 159, 43 C 160, 43 C 161, 43 C 162, 43 C 163, 43 C 164, 43 C 165, 43 C 166, 43 C 167, 43 C 168, 43 C 169, 43 C 170, 43 C 171, 43 C 172, 43 C 173, 43 C 174, 43 C 175, 43 C 176, 43 C 177, 43 C 178, 43 C 179, 43 C 180, 43 C 181, 43 C 182, 43 C 183, 43 C 184, 43 C 185, 43 C 186, 43 C 187, 43 C 188, 43 C 189, 43 C 190, 43 C 191, 43 C 192, 43 C 193, 43 C 194, 43 C 195, 43 C 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by a Political Agent which was plainly illegal. But in *Jaspal Bhagat v Emperor* 1922 Pat 442, 1 Pat 57 Jawal Prasad J. held that although S. 13 empowers the Local Government to stay, proceedings taken under Ch 3 of the Act, and to direct any warrant to be cancelled and the accused person to be arrested discharged, this does not oust the jurisdiction of the High Court to interfere in a case where the action under the Act has not been taken under a valid warrant. Supposing a warrant is issued by a Political Agent against an European British subject or for an offence which is not an 'extradition offence' viz not included in the schedule, the warrant is a nullity in its very inception and therefore the warrant is illegal as it is without jurisdiction. In *re Bai Aisha*, 53 B 149, 1929 B 81. wherein all the above mentioned authorities were considered, it was held by Mirza and Baker, J J that the execution by the district magistrate or the Chief Presidency Magistrate in British India of a warrant under S 7 of Extradition Act is not an executive act. The Magistrate has judicially to consider the matter and decide, whether the warrant can be executed according to law and that the order of the Magistrate is subject to revisional powers of the High Court. It was further held that 42 C 793 was too widely stated.

(2) In 3 P R. 1909 Cr Panjab Chief Court held that it had no power to interfere in respect of a warrant issued by a Political Agent of a Native State under S 7 of the Act.

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31. S 7 lays down that the Magistrate to whom the warrant is addressed shall Act in pursuance thereof and does not require him to take evidence, hence it is no part of his duty to ascertain whether the warrant issued under S. 7 was a legal warrant. *Hans Raj v. Crown* 7 L 159

High Court's Powers—Habeas Corpus (S. 491 Cr P. C :—See Notes under S 3 cl. (6 9) under the heading "Reference to High Court"

High Court's Powers—Inherent Powers (S. 561-A. Cr. P. C :—The execution by District Magistrate of a warrant under S 7 issued by a Political Agent is not an executive act. The order of the Magistrate can be interfered with under S. 561-A. Cr. P. C by the High Court in the exercise of its inherent powers. In *re Bai Aisha* 53 B 149-1929 B 81, 42 C. 793 explained

Trial of extradited persons whether for different offence legal :—See notes under Ss 3 and 19

Extradition to Native States—Procedure :—Chapter III (Ss 7-18) of this Act, together with the rules framed under S 22

regulates the procedure to be followed in British India upon the receipt of requisition for surrender of criminals who have fled from justice out of a Native State into British India. The provisions of subsisting treaties with Native States are however preserved by S. 18, but as there are no treaty obligations regarding the five Native States under Political Control of the Madras Government and there is no treaty with Mysore, and Hyderabad which has by agreement of 1887 waived its right to the procedure prescribed by the treaty of 1867 in favour of that laid down by the Extradition Act, the procedure in Chapter III of this Act, should therefore be followed in all these cases. Regarding other Native States in India a reference should be made to Aitchison Treatise, etc., to ascertain if there are subsisting treaties with them to govern the Procedure. Where there is no subsisting treaty, a Native State can under their act obtain the surrender of its fugitive in two ways.—

(i) By applying under S. 7 to the Political Agent who is authorised to comply in cases of grave offences set out in Schedule I to the said Act or (ii) by making a requisition to Government under S. 9, where the offence is of a political character or is not an extradition crime. Action under the latter section should not be taken, unless specially pressed for, and should the Durbar desire to proceed under S. 9, the Political Agent should forward the requisition for orders of Government with a report of the circumstances of the case and his own recommendation as to whether the Durbar's request should be granted or refused and then the question whether extradition should be granted is one entirely for disposal by Government. See *Madras Extradition Manual* 1911.

8. Release on giving security.—(1) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.—(2) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.—(3) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on

being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody

Deposit in lieu of bond, and forfeiture of bonds—(4) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of a bond and with respect to the forfeiture of bonds and the discharge of sureties

8A Power to report case for orders of Local Government—Notwithstanding anything contained in S 7, sub section (2) or in S 8, when an accused person arrested in accordance with the provisions of S 7 is produced before the District Magistrate or Chief Presidency Magistrate, as the case may be and the statement (if any) of such accused person has been recorded, such Magistrate may, if he thinks fit, before proceeding further report the case to the Local Government and, pending the receipt or orders on such report, may detain such accused person in custody or release him on his executing a bond with sufficient sureties for his attendance when required

Amendment—S 8-A was inserted by the Indian Extradition (Amendment) Act, 1919

Bail—Prior to the insertion of this section a British Indian Magistrate to whom a warrant had been addressed under S 7 had no power to admit a person arrested thereunder to bail *Balthazar v. Emperor* 33C., 1032 *Rajkumar Dutt v. Tothol Sijo*, 12 O W N 60¹ But now he has power when he reports the case to local Government. Once the warrant from the state authority has been received that Magistrate has no power to admit to bail even under the Extradition Act except under Ss 8 and 8-A and therefore unless that State authority directs bail to be taken the Magistrate can only do so if he reports the case to the local Government.' *In re Murlidhar Bhagwan Dass* 43 B 310 *Dadda Prasad v. District Magistrate Jeotmal*, A I R 1924 Nag 313=25 Cr L J 346=77 I O 234

The Provisions contained in this Act override the provisions of S 496 Cr P C with regard to bail. The Magistrate can not act under S 496 Cr P C as the Act directs that the person when arrested shall *unless released in accordance with the provisions of this Act* be forwarded to the place and delivered to the authority indicated in the warrant. Vide S. 7 (2) of the Act. *In re Murlidhar Bhagwan Das* 43.B 310 (321)

Procedure —If a person wants the benefit of some provisions of the treaty that he should not be surrendered he should raise the point before the District Magistrate who would then refer the matter for the orders of the local Government under S 8—A of the Act. *Voonga Lal Keot and others v Emperor* A I R 1933 Pat 290= 12 Pat, 347.

9 Requisitions by States not being Foreign States Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section.

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent

Offence:—See S 2(e) and notes thereunder *Supra*

Foreign; State:—See S 2 (c) and notes thereunder *Supra*

Any Person —S 7 excludes European British Subjects but this section applies to them as well

Political character:—See notes under S-3 (e), *Supra*

Treaty: —If there is a treaty with the state the provisions must be observed. In the absence of treaty the matter is one of absolute discretion with the Government either to surrender or not.

In *Jai Pal Bhaght v Emperor* A I R 1922 Pat 442, 1 Pat 57. Javala Parsad, J. remarked, "If the treaty prohibits extradition for offences not specified therein, such prohibition overrides the provisions of the schedule by virtue of S. 18,

there is no such prohibition in the treaty and therefore S 9 does not in any way derogate from the provisions of treaty. The Act practically enhances the power of the Nepal Government to requisition the authorities in the British territories to arrest and deliver fugitive offenders of their territory.

Procedure—The procedure for requisitioning the surrender of any person accused of having committed any offence not necessarily an extradition crime is laid down in S 9 of the Act but the requisition in such a case has to be made to the Government of India or to any Local Government. *Jin Pal Bhagat v. Emperor* 1 Pat 57.

10 Powers to Magistrates to issue warrants of arrest in certain cases (1) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

(2) **Issue of warrant to be reported forthwith** The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

(3) **Limit of time of detention of person arrested** A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

(4) **Bail.** In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Scope of section:—Under S-10 of the Act, Jurisdiction is distinctly conferred on the Magistrate in British India to make preliminary inquiries and to take evidence on the information given or complaint laid in regard to offence alleged to have been committed by Native Indian or British subject of His Majesty, within and beyond the limits of British India, not being in a foreign state, as defined in the Act and to order warrant to issue for the arrest of such accused persons. *Emperor v Mohamad Buksh Karim Buksh* 8 Bom L R 507, 4 Cr L J 49

Discretion of Magistrate in issuing warrants. See Notes under S 4 *supra*.

Arrest under S. 54 (7) Cr. P. C.—S. 54 (7) of the Code of Criminal Procedure (V of 1898) was amended by Act 10 of 1927 which runs thus

"Any Police Officer may, without an order from a Magistrate and without a warrant, arrest—*seventhly*, any person, who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which if committed in British India would have been punishable as an offence and for which he is, under any Law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise liable to be apprehended or detained in custody in British India". In view of this amendment the case reported in 19 B. 72, *In re Mukand*, that the arrest without warrant of a person charged with having committed an offence in a Native State is illegal, is no longer law.

Bail—Magistrate has power to grant bail to an accused who has been arrested in pursuance of S 54 (7) Cr. P. C. whom he has been asked to retain in, by the District Magistrate of a Native State. *In re Shri Ram Shambhu Dyal* A I R 1925 B. 104; 26 Cr. L J. 948, 87 L. C 100.

S. 54 (7) Cr. P. C. does not apply to city of Bombay and the arrest under similar circumstances is under S. 33 (g) of the Bombay City Police Act, 1902, which reproduces S 54 (7) Cr. P. C. S 23 of the Act covers a case of arrest under S 33 (g) of the Bombay Police Act and therefore a Magistrate can grant bail. (*ibid*).

11. (1) Surrender of person accused of or undergoing sentence for offence in British India. A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender. (2) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender

A person charged or imprisoned under the security sections (S 107 to S. 110) of the Criminal Procedure Code, 1898, would not come within the purview of the section *Jhogi Singh v. Empress* 23 C. 493

12. Application of Chapter to convicted persons
The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Escapes into British territory—A was arrested in Nepal on a charge of abetment of murder (an extradition offence) and was put in jail. He escaped from the prison and came to a neighbouring British territory. A warrant under S 7 of the Act was issued to District Magistrate of Champaran which ran as follows: Whereas Jai Pal Bhagat, being a Nepalese subject

accused of absconding from jail has fled from Nepal to British territory and is at present in your jurisdiction, this warrant is to authorise you to arrest and deliver the above named person to the Nepalese officer." It was held that S 7 applies only to "extradition offence" and absconding from jail, not being an extradition offence, S 7 has no application at all. The warrant is therefore illegal and without jurisdiction *Jai Pal Bhagat v Emperor* 1 Pat 57-A I. R. 1922 Pat 442.

It should be observed that in this case no mention was made of Ss. 9, 12 and if the proceedings had been instituted under S. 9 the warrant would have been absolutely valid. The effect of this section is the same as that which is secured by the definition of "fugitive criminal" in the Extradition Act 1870, except that in the Indian Extradition Act 1903, it is not necessary that the fugitive offender should have been convicted of extradition offence only.

This point was duly considered by Avory, J., in *Ex parte Moser*, [1915], 2 K. B., 691 where it was held that a person who is convicted and sentenced to imprisonment for an extradition crime and who breaks out of prison and escapes before the expiration of his sentence is a fugitive criminal

13. Abetment and attempt. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Abet.—Abet with its grammatical variations and cognate expressions shall have the same meaning as in the Indian Penal Code. *Vide* S. 3 (1) General Clauses Act X of 1897.

By this definition the sections of the Indian Penal Code relating to abetment or attempt shall be deemed to be included in the list of offences given in the first schedule

14. Lawfulness of custody and re-taking under warrant issued under Chapter. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Arrest.—S 54 (1) *fifthly* of the Criminal Procedure 1898 authorises a Police Officer to arrest without a warrant any person who has escaped, or attempts to escape from lawful custody.

15. Power of Government to stay proceedings and discharge persons in custody. The Government of India or the Local Government may, by order stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

High Court's powers to interfere in revision —See Notes under S. 7 *supra*

High Court's inherent powers under S. 561—A. Cr. P. C.
See Notes under S 7 *supra*.

High Court's Powers to issue writ of Habeas Corpus —
—See Notes under S 3 Cl 6 to 9 *supra*

Local Government's Powers.—S 15 of the Act empowers the Government of India or Local Government to stay any proceedings taken under Chapter III of the Act and to direct any warrant to be cancelled and the person arrested to be discharged, but that does not necessarily oust the jurisdiction of the High Court to interfere in a case where the action under the Act has not been taken under a valid warrant *Jai Pal Bhagat v Emperor* 1 Pat. 57.

16. Application of Chapter to offences committed before its commencement. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

Concurrent Jurisdiction.—*Cf* S. 6 of the Extradition Act 1870 (33 and 34 Vict Ch 52) S. 4 of the Indian Penal Code read with this section regulates the extra territorial criminal jurisdiction conferred upon courts in British India.

The provisions of S 188 Cr P. C. should be read in this connection, which are as follows —

“When a native Indian subject of His Majesty commits an offence at any place without and beyond the limits of British India, or when any British subject commits an offence in the territories of any Native Prince or Chief in India, or when a servant of the King Emperor (whether a British subject or not), commits an

offence in the territories of any Native Prince or Chief in India, he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found

Provided, that no charge as to any such offence shall be inquired into in British India, unless the Political Agent, if there is one for the territory in which the offence is alleged to have been committed, certifies that in his opinion the charge ought to be inquired into in British India, and where there is no Political Agent, the sanction of the Local Government shall be required

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence, if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act 1879, in respect of the same offence in any territory beyond the limits of British India.

17. Receipt in evidence of exhibits, depositions and other documents. (1) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

Authentication of the same. (2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,—

- (a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State:
- (b) if the depositions or statements or copies thereof purport to be certified under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements.

statements or to be true copies thereof as the case may require:

- (c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State:
- (d) if the warrants, deposition, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

3. Definition of "warrant". For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.

Warrant.—This section reproduces the definition of warrant from S 26, Extradition Act, 1870. It was considered in *R v Ganz* (1882), 9 Q. B. D. 93, where it was held that a copy, sealed with the seal of the Department of Justice at the Hague, of the record of a certain order of a criminal court setting forth the charges against the accused and authorizing his arrest was a "warrant" within this definition.

18 Chapter not to derogate from treaties. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly.

Treaty.—(1) The treaty making power of the Governor General of India-in-Council is expressly saved by S. 23 of Extradition Act 1870 (33 and 34 Vict., Ch. 52).

(2) There are a number of extradition treaties with Native States in India. But as the procedure laid down in S. 7 of the Act is so convenient, that many states have by subsequent agreements agreed to abide by that treatment. Some selected treaties have been given in the Appendix. For treaties with Native States see *Aitchison on treaties*.

(3) S 18 provides that where a treaty is in force the procedure laid down therein shall be followed, and the procedure laid down by Chapter III of this Act shall be modified to that extent.

(4) It is only when there is a question of conflict between the treaty and the Act with regard to the omission or inclusion of an offence, for which extradition is demanded that the question of 'derogation' can arise

(5) If the offence is mentioned in the schedule but not in the treaty, the fugitive criminal can be surrendered. But if the treaty prohibits the extradition for offences such a provision overrides the provisions of the schedule by virtue of the provisions of S 18 of the Act. In *Jai Pal Bhagat v Emperor* 1 Pat. 57, Jawala Parsad, J observed "That absconding from jail is not one of the offences mentioned in the schedule of the Act and therefore S 7 has no application at all and the warrant in question issued by British Envoy at the court of Nepal for the arrest of petitioner is without jurisdiction. Reliance is placed upon S 18 of the Extradition Act to show that S 9 should be deemed to have been controlled by the treaty, inasmuch as nothing in the Act has been declared to derogate from the provisions of the treaty for the extradition of offenders. That contention does not appear to be sound. If the treaty prohibits extradition for offences not specified therein, such provision overrides the provisions of the schedule by virtue of S 18, but there is no such provision in the treaty and therefore S 9 does not in any way derogate from the provisions of treaty. The Act practically enhances the powers of the Nepal Government to requisition the authorities in the British territories to arrest and deliver fugitive offenders of their territory."

(6) If the offence is included in the schedule and not in the treaty with the state, the state can take advantage of the schedule and get the accused extradited. The question was whether, in view of S 18, the offence of cheating is an extradition offence so far as British India and Hyderabad State are concerned, notwithstanding its omission from Article IV of the treaty dated 8th May, 1867 between them. Hayward J observed "If it had been the intention to exclude the addition of any offence, then the word 'derogate' or 'take away from' could hardly have been used. In its place would have been substituted some such word as modify". In *re Murlidhar and Bhagwan Das* 43 B 310

(7) The converse of an offence included in the treaty but not in the schedule has been referred to above in *Jai Pal Bhagat v. Emperor* 1 Pat 57

(8) If there is an express prohibition in the Treaty with regard to the surrender of British subjects, it is possible

the protection of the High Court might be claimed for British subjects, as it was claimed and granted *In re Wilson* [1894] 3 Q B D 42. In that case the Government of Switzerland had applied for the extradition of a British subject which was prohibited by the treaty. 'The Indian Extradition Act provides that nothing in the Act shall apply in derogation of treaty powers but I doubt whether this provision can be properly treated by Municipal Courts as taking away from the Government power given by the Act merely because the power may have been limited by the Act' *Moonga Lal Keot and others v. Emperor* 12 Pat 347, A I R 1933 Pat 295

of the parties to the consent of the has committed an offence not mentioned in the treaty. All that S 18 provides is that the Act shall not work against the will of either party, so as unduly to impose any liability on such party. It does not prevent their co-operation in a friendly action according to the comity of nations. *Jamna v Emperor* A I R 1926 Sind 126, 91 I O 69, 27 Cr L J 37

Procedure —(1) The Indian Extradition Act is the law of the land not so far as the third chapter is concerned to be applied for this or that country by order in council or by any special means. If some special procedure has been arranged by treaty S 18 of the Act, provides that it may be followed but if the Government choose to exercise the powers given by the Act no Municipal Court could interfere on the ground that the Government had undertaken to act, otherwise than by treaty. *Moonga Lal, Keot and others v Emperor* 12 Pat 347, A I R 1933 Pat, 295

(2) The procedure to be followed in extradition proceedings between the British Government and the French settlement in India is that provided by Art 9 of the treaty of 1816. Art 4 of the treaty contemplates a summary procedure and so where a Magistrate in British India on demand from the French Governor of without further in qui edds and another v Em v Emperor 47 C 37 followed, in re Celeste Cullington 48 C 328 not approved

CHAPTER IV.

RENDITION OF FUGITIVE OFFENDERS IN HIS
MAJESTY'S DOMINIONS.

19. Application of The Fugitive Offenders Act 1881. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881, the following provisions are here by made:—

- (a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government:
- (b) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court:
- (c) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government in that behalf: and
- (d) the offences committed in British India to which the Act applies, are piracy, treason and any offence punishable under the Indian Penal Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment.

Fugitive Offenders Act, 1881.—S 32 of the Fugitive Offenders Act, 1881. (44 and 45 Vict. Ch 69), provides that if the Legislature of a British Possession passes any Act or Ordinance for the purpose of carrying into effect its provisions, an order in Council may be made declaring that such Act, or Ordinance shall be recognized and given effect to throughout His Majesty's Dominions and on the High Seas, as if it were part of this Act. The Act is given in Appendix "B".

An order in Council, dated 7th March, 1904, declares that Chapter IV of the Indian Extradition Act, 1903 shall be given effect to throughout His Majesty's dominions, as if it were part of the Fugitive Offenders Act, 1881.

Orders in Council.—The following orders in Council were issued grouping British India with other British Possessions for the purpose of Part II of Fugitive Offenders Act, 1881

(1) Order in Council, 1918 (No 28, dated 2nd January 1918, S R and O, Vol I P. 425) Grouping together British India, Ceylon, Hong Kong, The Straits Settlements, The Federated Malay States, Johore, Kedah and Perlis, Kelantan, Trengganu Brunei north Borneo, and Sarawak

(2) The Bahrein order in Council, 1913 (No. 891, dated 12th August, 1913, S R and O, 1913, P 247) Grouping together British India, Bahrein, Masket The Persian Coast and Islands and all other places on the Shores of the Persian Gulf or The Gulf of Oman, and Aden

(3) The Kuwait order in Council 1925 (No 972, dated 17th March, 1925, S R and O, 1925, 445,) Grouping British India with Masket, Bahrein Kuwait, The Persian Coast and Islands, and all other places on the Shores of the Persian Gulf or the Gulf of Oman, and Aden.

(4) The Masket order in Council, 1915 (No 132, dated 3rd February, 1925, S R and O, 1915, Vol I, P 280), Grouping together British India, Bahrein, Masket, The Persian Coast and Islands and all other places on the shores of the Persian Gulf or the Gulf of Oman, and Aden

(5) The Somaliland order in Council, 1899 (No 758, dated 7th October, 1899, S R & O—Revised—1904, "Foreign Jurisdiction," P 173), grouping together British India, Somaliland, Aden, Zanzibar and the East Africa and Uganda protectorates.

(6) The Zanzibar Order in Council, 1924 (No. 1401, dated 8th December 1924, S R & O, 1924, P 434), grouping together British India, Zanzibar, the Kenya Colony and Protectorate, The Tanganyika Territory, Aden, Mauritius and all British-possessions and protectorates in Africa South of Equator.

The following provision was made by Article 8 (2) of the order and provisions of the British

Islands exclusive of the Irish Free State shall be treated as if they were separate parts of His Majesty's Dominions "

Extradition to British India—Procedure—(1) The general law dealing with the surrender of Fugitive offenders between different parts of the British dominions is the Fugitive Offenders Act, 1881. As regards India it is supplemented by S 19 of the Indian Extradition Act, 1903.

(2) A charge should be preferred before a First Class Magistrate or some other magistrate specially empowered in that behalf, in respect of an offence specified in S 19 (c) of the Extradition Act, 1903, who would record evidence under S 512 of the Code of Criminal Procedure (V of 1898) or in exercise of the powers conferred by S 29 of the Fugitive Offenders Act. The Magistrate should then see whether a *prima facie* case has been made out and whether facts constitute an offence according to law in British India and whether that offence falls under S. 19 (d) of this Act. If he is satisfied on all the points mentioned above and also finds that the fugitive has actually fled from, or is not in, British India he should issue a warrant in the form prescribed by S. 75 of the Code of Criminal Procedure, 1898. It should be directed to the police who is to serve it and should be accompanied by authenticated copies of the record. The warrant and other papers are sent to the authority which is to take further action in the matter.

(3) If the warrant is to be sent to some other British
the procedure is
warrant is produced
offender has fled
19, of Fugitive,

Offenders Act, 1881 have been complied with, endorses the warrant which is then executed.

(4) The identity of the offender must be established by the Police Officer or some person accompanying him.

(5) In view of S. 19 of Fugitive Offenders Act, 1881, the officer taking the warrants should have enough documentary evidence in his possession to enable him to show a *prima facie* case.

(6) Provisional warrants can be issued under S. 16, Fugitive Offenders Act, 1881, in an urgent case, where time is of the greatest importance, but the original warrant must be produced in a reasonable time.

Magistrate—S 19 (c) empowers only a first class Magistrate or any Magistrate empowered by Local Government to enforce the provisions of Fugitive Offenders Act 11 Cr. L. J. 622

Trial of Fugitive Offender brought back.—The trial of a fugitive offender who is brought back to British India is conducted like any other criminal trial. The Magistrate may admit person to bail, though this power may be exercised with great

Orders in Council in Council were issued grouping Possessions for the purpose of Pa , 1881

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The following provision was made by Article 8 (2) of the Irish Free State (Consequential Adaptation of Enactments) order 1923, "For the purpose of the Fugitive Offenders Act, 1881 and 1915, in their application to any part of His Majesty's Dominions outside the British Islands, the Irish Free State and the British Islands exclusive of the Irish Free State shall be treated as if they were separate parts of His Majesty's Dominions "

Extradition to British India—Procedure—(1) The general law dealing with the surrender of fugitive offenders between a Foreign State and British India is contained in the Fugitive Offenders Act, 1881, amended by S 19 of the

(2) A charge should be preferred before a First Class Magistrate or some other magistrate specially empowered in that behalf, in respect of an offence specified in S 19 (c) of the Extradition Act, 1903, who would record evidence under S 512 of the Code of Criminal Procedure (V of 1898) or in exercise of the powers conferred by S 29 of the Fugitive Offenders Act. The Magistrate should then see whether a *prima facie* case has been made out and whether facts constitute an offence according to law in British India and whether that offence falls under S. 19 (d) of this Act. If he is satisfied on all the points mentioned above and also finds that the fugitive has actually fled from, or is not in, British India, he should issue a warrant in the form prescribed by S. 75 of the Code of Criminal Procedure, 1898. It should be directed to the police who is to serve it and should be accompanied by authenticated copies of the record. The warrant and other papers are sent to the authority which is to take further action in the matter.

(3) If the warrant is to be sent to some other British Possession, to which an order in council applies, the procedure is almost the same as indicated above. The warrant is produced before a Magistrate to whose jurisdiction the offender has fled who, if satisfied that the provisions of S 19, of Fugitive, Offenders Act, 1881 have been complied with, endorses the warrant which is then executed.

(4) The identity of the offender must be established by the Police Officer or some person accompanying him.

(5) In view of S. 19 of Fugitive Offenders Act, 1881, the officer taking the warrants should have enough documentary evidence in his possession to enable him to show a *prima facie* case.

(6) Provisional warrants can be issued under S. 16, Fugitive Offenders Act, 1881, in an urgent case, where time is of the greatest importance, but the original warrant must be produced in a reasonable time.

Magistrate—S 19 (c) empowers only a first class Magistrate or any Magistrate empowered by Local Government to enforce the provisions of Fugitive Offenders Act 11 Cr. L. J. 622

Trial of Fugitive Offender brought back.—The trial of a fugitive offender who is brought back to British India is conducted like any other criminal trial. The Magistrate may admit person to bail, though this power may be exercised with great

care and caution, *R. v. Spilsbury* [1898] 2 Q. B. 615, *Ex parte Percival* [1907] 1 K. B. 696. A prisoner can be tried even if the name under which he is surrendered is not his true name, where his identity is satisfactorily established. *Reg. v. Finkalstein and Truscovitch*, [1886], 16 Cox, C. C. 107. See also notes under S. 3 under the heading Trial of extradited person—whether for different offence.

CHAPTER V.

OFFENCES COMMITTED AT SEA.

20. Requisition for surrender in case of offence committed at sea.—Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorised by the Local Government in this behalf may exercise the powers conferred by this Act.

Jurisdiction—Jurisdiction in regard to offences committed at sea is determined by Admiralty Jurisdiction. Since the oceans are the common highways of nations, public and private vessels upon them, outside of the limits of any country are deemed to be floating parts of the territory of the several countries to which they respectively belong; and a crime committed on one of them is punishable by its particular Government, as within its complete territorial jurisdiction. *Wharton International Law*, 150 174, *Polson Law of Nations*, 25. *Marshall v. Mer Gatroed*, 6 Q. B. 31, 33. *R. v. Amarro*, Russ and Ry. 286. Admiralty jurisdiction only takes cognizance of acts committed on the sea. The Admiral has no jurisdiction over murder, where the wounding was at sea, but the death happened on shore. 1 Hab. C. P. 17. If the offence is committed in any navigable river, the accused may be tried in any British Possession through which it passes, vide S. 21, Fugitive Offenders Act, 1881.

In *Gulab Sahu v. Emp.* decided by Divisional Bench of the Calcutta High Court (Imam and Chapman, J. J.) in July 1913, Their Lordships remarked that before concluding this judgment we desire to quote the following passage from the judgment of the Privy Council delivered by the Lord Justice Milliah in *Attorney-General of the Colony of Hong Kong v. Kwark-a-Singh*, L. R. 5 Privy Council Appeal cases, page 179, which Magistrates

dealing with such cases may profitably bear in mind — ‘Suppose that a subject of China kills an Englishman within English territory or on Board an English ship under circumstances which according to English Law might amount to manslaughter only, could it possibly be right for the English Government to surrender such a person to the Chinese Government to be tried according to Chinese Law to which the distinction between murder and manslaughter may be wholly unknown

CHAPTER VI

EXECUTION OF COMMISSIONS ISSUED BY CRIMINAL COURTS OUTSIDE BRITISH INDIA

21 Execution of commissions issued by Criminal Courts outside British India—The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term “suit” included a criminal proceeding,

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character

India—India means British India together with any territories of any Native Prince or Chief under the Suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India *vide* S 3 (27) General Clauses Act, 1897

CHAPTER VII

SUPPLEMENTAL

22. (1) Power to make rules—The Governor General in Council may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them,
- (b) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies,
- (c) the pursuit and arrest in British India, by officers of the Government or other persons authorised in this behalf, of persons accused of offences committed elsewhere, and
- (d) the procedure and practice to be observed in extradition proceedings

(3) Rules made under this section shall be published in the *Gazette of India*, and shall thereupon have effect as if enacted by this Act

Commissions —The provisions regarding issuing of commissions are embodied in Part III and Order XXVI of the Code of Civil Procedure 1908

Rules-interpretation —Rules made under S 22 (4) by the Governor General in Council and published in the *Gazette of India* must be treated as if they are sections enacted by the Act itself *Baynath v Emp* 1931 Oudh 394=33 Cr L J 1743=134 I C 594

Rules —See Appendix A'

23 Detention of persons arrested under section 54, clause seventhly, Act V, 1898 —Notwithstanding anything in the Code of Criminal Procedure, 1898, any person arrested without an order from a Magistrate and without a warrant in pursuance of the provisions of section 54, clause seventhly, of the said

Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10.

Bail.—S. 23, Extradition Act, 1903, empowers the Magistrate to grant bail to a person arrested without warrant under S 54 (7) or under S.33 (g) of the Bombay City Police Act, 1902. In *re Shri Ram Shambhudyal*, 1925 B. 104=87 I. C. 100=26 Cr. L. J. 948.

Arrest.—S. 54, *seventhly* of the Code of Criminal Procedure 1898, provides for the arrest of a person without warrant, who can be arrested under any law relating to extradition or under Fugitive Offenders Act, 1891. When an arrest is made lawfully, the Police must forthwith produce the person arrested before a Magistrate in order that detention may conform to the provisions of S. 23 of the Act. To allow a person to be arrested by the Police when no extradition warrant has been issued nor any requisition made and no assistance is sought for from the Magistrate, within whose Local jurisdiction the offender is at the time, would be to subvert the whole law as to arrest of fugitive offenders as contained in the Indian Extradition Act, which undoubtedly is the law regulating the Procedure to be adopted. *Subodh Chandra Roy Chaudhri v Emp*, 52 C. 319=1925 C. 278=26 Cr. L. J. 625=85 I. C. 1913.

Credible information —A telegram from State "Police" to arrest an offender 'Wanted for embezzlement' or "Embezzlement of money to the value of a couple of lakhs of rupees" cannot be said to be credible information on the strength of which arrest under S 54, *seventhly* of the Criminal Procedure Code without a warrant can be made, although this may be sufficient for requisition sent by State to the Local Government *Subodh Chandra Roy Chaudhri v Emp*. S 52 C 319, per Walmsby, J.

24. Repeal [*Repealed by the Repealing and Amending Act 1914.**]

* X of 1914

THE FIRST SCHEDULE

EXTRADITION OFFENCES

[See section 2, clause (b), and Chapter III (*Surrender of Fugitive Criminals in case of States other than Foreign States*)]

[The sections referred to are the sections of the Indian Penal Code]

Frauds upon creditors (section 206)

Resistance to arrest (section 224)

Offences relating to coin and stamps (sections 230 to 263A).

Culpable homicide (sections 299 to 304)

Attempt to murder (section 307)

Thagi (sections 310, 311).

Causing miscarriage and abandonment of child (sections 312 to 317)

Causing hurt (sections 323 to 333)

Wrongful confinement (sections 347, 348)

Kidnapping and slavery (sections 360 to 373)

Rape and unnatural offences (sections 375 to 377)

Theft, extortion, robbery, etc. (sections 378 to 414).

Cheating (sections 415 to 420)

Fraudulent deeds, etc (sections 421 to 424)

Mischief (sections 425 to 440)

Lurking house trespass (sections 443, 444)

Forgery, using forged documents, etc. (sections 463 to 477A)

¹[Desertion from any unit of Indian State Forces declared by the Governor General in Council by notification in the *Gazette of India*, to be a unit desertion from which is an extradition offence]

Piracy by law of nations

Sinking or destroying a vessel at sea or attempting or conspiring to do so

Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master

¹Substituted by section 2 of the Indian Extradition (Amendment) Act 1922

APPENDIX A—EXTRADITION RULES.

Rules for the pursuit and arrest of Fugitive offenders.

No. 107-1—In exercise of the powers conferred by section 22 of the Indian Extradition Act, 1903 (XV of 1903) and in supersession of the notification of the Government of India in the Foreign and Political Department, No. 505-1, dated the 13th August, 1931, the Governor-General in Council is pleased to make the following rules to provide for the pursuit and arrest in British India of persons accused of offences committed elsewhere:—

1. When a person accused of having committed in a State specified in the First Schedule hereto, an offence which, if committed in British India, would be punishable under a section of the Indian Penal Code specified in the Second Schedule hereto, enters British India with members of the Police force of that State in pursuit, the pursuing party may subject to the provisions hereinafter contained, continue the pursuit into, and arrest the fugitive in, British India,

2. The authorisation conferred by rule (1) shall not be operative unless—

(a) The pursuing party includes at least one officer holding in the State Police force a rank not lower than the rank corresponding with that of a Head Constable of Police in British India, and

(b) the circumstances are such that an application for the continuance of the pursuit and the effecting of the arrest by the British Indian Police would prejudice the prospect of effecting the arrest of the fugitive.

3. A person arrested by State Police under the authority
 in
 and

FIRST SCHEDULE.

Part A—States permanently included in the Schedule.

- | | |
|----------------|--------------|
| (1) Hyderabad. | (3) Kasbmir. |
| (2) Mysore. | (4) Gwalior. |
| | (5) Sikkim. |

Central India.

- | | |
|--------------|---------------------------|
| (6) Indore. | (16) Ajaigarh. |
| (7) Bhopal. | (17) Bijawar. |
| (8) Rewa. | (18) Baoni. |
| (9) Nagod. | (19) Chhatarpur. |
| (10) Maihar. | (20) Dewas Senior Branch. |
| (11) Orchha. | (21) Dewas Junior Branch. |
| (12) Datia. | (22) Jaora. |

- | | |
|-----------------|---------------|
| (13) Samthar. | (23) Sitamau. |
| (14) Panna | (24) Sailana. |
| (15) Charkhari. | (25) Rutlam. |

Rajputana.

- | | |
|-----------------|---------------|
| (26) Alwar. | (30) Kotah. |
| (27) Bikaner. | (31) Jaipur. |
| (28) Bharatpur. | (32) Jodhpur. |
| (29) Dholpur. | (33) Tonk. |

Punjab.

- | | |
|--------------|------------------|
| (34) Patiala | (37) Kapurthala. |
| (35) Jind | (38) Sirmoor. |
| (36) Nabha. | (39) Malerkotla. |
| | (40) Faridkot. |

States of Western India

- | | |
|--------------------|---|
| (41) Cutch. | (59) Thana Deoli. |
| (42) Junagadh | (60) Vadha |
| (43) Nawanganar. | (61) Lathi. |
| (44) Bhavanagar | (62) Muli. |
| (45) Porbandar. | (63) Virpur. |
| (46) Dharangadhra. | (64) Malia |
| (47) Palanpur | (65) Kotala-Sanganj |
| (48) Radhanur. | (66) D. S. Yala Mulu Suraj
of Jetpur. |
| (49) Morvi. | (67) D. S. Vala Rawat Ram
of Bilkha |
| (50) Gondal | (68) Patdi |
| (51) Jafrabad. | (69) Tharad. |
| (52) Dhrol | (70) Wad. |
| (53) Lumbdi. | (71) M. S. Jorawarkhanji's
State Varahi. |
| (54) Wadhwan. | (72) Thana areas and the
Civil Stations of
Wadhwan and Rajkot
in the Western India
States Agency. |
| (55) Lakhtar. | |
| (56) Vala. | |
| (57) Jasdan. | |
| (58) Manavadar. | |

Madras

- | | |
|-----------------|-------------|
| 73. Travancore. | 74. Cochin. |
| 75. Pudukkattah | |

Bombay.

- | | |
|---------------------|-------------------------|
| 76. Savantnadi. | 85. Miraj (Junior) |
| 77. Jath. | 86. Jamkhandi. |
| 78. Sauanur. | 87. Kurundwad (Senior). |
| 79. Cambay. | 88. Kurundwad (Junior). |
| 80. Janjira. | 89. Ramdruz. |
| 81. Kolhapur | 90. Idar |
| 82. Mudhol. | 91. Vijayanagar. |
| 83. Sangli. | 92. Danta. |
| 84. Miraj (Senior). | 93. Mansa. |

94	Malpur	106	Phaltan
95	Surgana	107	Akalkot
96	Bhar	108	Khairpur
97	Raipipla	109	Bansda
98	Chhota Udepur	110	Dharampur
99	Lunawada	111	Jawhar
100	Saut	112	Administered
101	Kadana		areas comprised in
102	Bhadarwa		the thana Circles
103	Sanjeli		and Sadar Bazaar
104	Jambugheda,	113	Sankeda Mewas
105	Aunsh	114	Pandu Mewas

Bengal

115	Cooch Behar	116	Tripura
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United Provinces

117	Benares	118	Tehri
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Bihar and Orissa

119	Patna	137	Daspalla
120	Mayur bhanj	138	Nayagarh
121	Kalahaudi	139	Talcher
122	Sompur	140	Nilgiri
123	Bamra	141	Hudol
124	Bairakhol	142	Kharsawan.
125	Gangpore	143	Ranpur
126	Keonjhar	144	Athmalik.
127	Dhenkanal		Narsinghpur
128	Band		Athgarh
129	Seraikela		Pal Lahara
130	Bana		Baramba.
131	Khandpara.		Giziria

Assam

145 Manipur

PART B—States included in the Schedule for the period, commencing from the 13th August 1931, specified against each

State	Period	State.	Period
Dhar	5 years	Ali Rajpur	2 years
Baroda	3 years	Barwan	1 year

SECOND SCHEDULE

List of sections of the Indian Penal Code —

Sections 300 302 303 304, 307, 308 311, 382 392, 393, 394 395 396, 397, 398 399, 400, 401 and 407

Published in the "Gazette of India," dated the 6th March, 1932.

Rules for Regulating the Procedure of Political Agents:—

No 1862 I. A, dated 13th March, 1904. In exercise of the powers conferred by the Indian (Foreign Jurisdiction) order in Council, 1902, and by Section 22 of the Indian Extradition Act, 1903 (XV of 1903), and in supersession of all previous rules on the same subject, the Governor General in Council is pleased, with effect from the 1st day of June, 1904, to make the following rules, namely—

(1) The Political Agent shall not issue a warrant under this section in any case which is provided for by treaty, if the state concerned has expressly stated that it desires to abide by the procedure of the treaty, nor in any case in which a requisition for surrender has been made by or on behalf of the state under S 9 *infra*

(2) The Political Agent shall not issue a warrant under this section except on a request preferred to him in writing, either by or by the authority of the person for the time being administering the executive Government of the state for which he is a Political Agent, or by any court within such state which has been specified in this behalf by the Governor General in Council or by the Governor of Madras or Bombay in Council, as the case may be, by notification in the Official Gazette

(3) If the accused person is a British subject, the Political Agent shall, before issuing a warrant under this section, consider whether he ought not to certify the case, if he is satisfied that the interests of justice and the convenience of the witnesses can better be served by the trial being held in British India See 6 B 622

(4) The Political Agent shall, in all cases before issuing a warrant under this section, satisfy himself by preliminary inquiry or otherwise that there is a *prima facie* case against the accused person

(5) (a) The Political Agent shall, before issuing a warrant under this section, decide whether the warrant shall provide for the delivery of the accused person—(i) to the Political Agent or to a British officer subordinate to the Political Agent, or (ii) to an authority of the state with a view to his trial by the state courts

(b) *Be...*

and trouble involved in bringing the accused person before himself, (iii) the Judicial qualification of the courts of the state, (iv) whether the accused person is a British subject or not, and if he is a British (other than an European British) sub;

whether the courts of the state by custom or by recognition, try such British subjects surrendered to them, (v) whether the courts of the state have by custom or by recognition, powers to inflict the punishment which may be indicated under the Indian Penal Code for an offence similar to that with which the accused person is charged

(6) Notwithstanding anything in Rule 5, the Political Agent shall make the warrant provide for the delivery of the accused person to himself or to an officer subordinate to himself, or to an authority of the state concerned, as the case may be, if he is generally or specially instructed by the Governor General in Council to try an accused person himself or to make him over for the trial to the proper courts of such state.

(7) In the case of an accused person made over for trial to the Court of the state the Political Agent shall satisfy himself that the accused receives a fair trial, and that the punishment inflicted on conviction is not excessive or barbarous, and if he is not so satisfied, he shall demand the restoration of the prisoner to his custody pending the orders of the Governor General in Council (As to trial for an offence other than that for which extradited see 17 B. 369 at Pp. 374 and 375 and Ss. 227 and 337 Cr P. C.).

(8) Accused persons arrested in British India on warrant issued under this section or S 9, *infra*, shall be treated as far as possible in the same way, as persons under trial in British India.

(9) A person sentenced to imprisonment by a Political Agent shall if a British subject, be conveyed to the most convenient prison under British administration and shall there be dealt with as though he had been sentenced under the Local Law

Provided always that this rule shall not be construed so as to give such person any right of appeal other than that allowed by the rule for the time being in force, regulating appeals from the Political Agent.

(10) Nothing in these rules shall be held to apply to areas in native states under British jurisdiction in which the Code of Criminal Procedure (Act V. of 1898) is in force.

[This rule was added by Notification No 254-1 B, dated the 26th January, 1912, *vide Gazette of India*, 1912, Pt. I, p 75]

(See Gazette of India, 1904, Pt I p 364.)

Notes—These rules must be treated as if they are sections enacted by the Act itself. Because there are no materials before the British Courts disclosing the procedure on which the Political Agent acted in issuing the Extradition warrant, it does not follow that his act of issuing it was illegal *Baj Nath v. Emperor*, 1931 Qudh 394, 32 Cr. L J. 1243.

APPENDIX " B "
THE EXTRADITION ACT, 1870
(33 & 34 VICT C 25)

*An Act for amending the Law relating to the Extradition of
Criminals*

[9th August, 1870]

[Preamble and enacting words Repealed as to the United Kingdom by
the Statute Law Revision Act, 1893]

Preliminary

1 Short title—This Act may be cited as 'The Extradition Act, 1870'

2 Where arrangement for surrender of criminals made, Order in Council to apply Act—Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals Her Majesty may by Order in Council direct that this Act shall apply in the case of such foreign state

Her Majesty may by the same or any subsequent order limit the operation of the order and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's dominions specified in the order and render the operation thereof subject to such conditions exceptions and qualifications as may be deemed expedient

Every such order shall recite or embody the terms of the arrangement and shall not remain in force for any longer period than the arrangement

Every such order shall be laid before both Houses of Parliament within six weeks after it is made or if Parliament be not then sitting, within six weeks after the then next meeting of Parliament and shall also be published in the London Gazette

3 Restrictions on surrender of criminals—The following restrictions shall be observed with respect to the surrender of fugitive criminals—

- (1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves to the satisfaction of the police magistrate or the court before whom he is brought on *habeas corpus*, or to the Secretary of State that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character

- (2) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state or by arrangement that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded

- (3) A person accused of some offence not being the one for which he is asked, or is undergoing sentence under any conviction in the United Kingdom shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise

- (4) **Provisions of arrangement for surrender**—
A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison or to await his surrender

4 An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

- (1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year, and
- (2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

5 **Publication and effect of order**—When an order applying this Act in the case of any foreign state has been published in the London Gazette, this Act, after the date specified in the order, or if no date is specified, after the date of the publication shall, so long as the order remains in force, but subject to the limitations, restrictions conditions, exceptions and qualifications if any, contained in the order apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever.

6 **Liability of criminal to surrender**—Where this Act applies in the case of any foreign state, a person charged with an offence in that state shall be liable to be apprehended and surrendered in manner provided by this Act, whether

the crime in the respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

7. Order of Secretary of State for issue of warrant in United Kingdom if crime is not of a political character—A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse, to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody

8. Issue of warrant by police magistrate, justice, etc.—A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

- (1) by a police magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England, and
- (2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction

Any person issuing a warrant under this section without an order from Secretary of State, shall forth with send a report of the fact of such issue together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section,

(2) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state or by arrangement that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded

(8) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, until after he has been restored or on expiration

(4) **Provisions of arrangement for surrender—**
A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison or to await his surrender.

4. An Order in Council for applying this Act in the case of any foreign state shall not be made unless the arrangement—

(1) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year, and

(2) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

5 **Publication of order for surrender—**

ing this Act
the London G

or if no date is specified, after the date of the publication shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the order apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the requisitions of the foreign state order shall not be questioned in any legal proceedings whatever.

6 **Liability of criminal to surrender—**Where this Act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of Her Majesty's dominions, or that part which is specified in the order applying this Act, (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this Act, whether

the crime in the respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's dominions over that crime.

7. Order of Secretary of State for issue of warrant in United Kingdom if crime is not of a political character—A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign state. A Secretary of State may, by order under his hand and seal, signify to a police magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse, to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

8. Issue of warrant by police magistrate, justice, etc.—A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

- (1) by a police magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England, and
- (2) by a police magistrate or any justice of the peace in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from Secretary of State, shall forth with send a report of the fact of such issue together with the evidence and information or complaint, or certified copies thereof, to a Secretary of State, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this

who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a police magistrate

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the police magistrate, unless the police magistrate, within such reasonable time as, with reference to the circumstances of the case he may fix, receives from a Secretary of State an order signifying that a requisition has been made for the the surrender of such criminal

9. Hearing of case and evidence of political character
 if a criminal is brought before the police magistrate, the police magistrate shall hear the case as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England

The police magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime

10 Committal or discharge of prisoner—In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the law of England, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in England, the police magistrate shall commit him to prison, but otherwise shall order him to be discharged

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

11 Surrender of fugitive to foreign state by warrant of Secretary of State—If the police magistrate commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*

Upon the expiration of the said fifteen days, or, if a writ of *habeas corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal, if not delivered on the decision of the court, to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant, and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape

12 Discharge of persons apprehended if not conveyed out of United Kingdom within two months—If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two month after such committal, or, if a writ of *habeas corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody unless sufficient cause is shown to the contrary

13 Execution of warrant of police magistrate.—The warrant of the police magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently endorsed by a justice of the peace having jurisdiction in the place where the same is executed.

14 Depositions to be evidence—Depositions or statements on oath, taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction, may, if duly authenticated be received in evidence in proceedings under this Act.

15 Authentication of depositions and warrants Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of, or judicial documents stating the fact of, a conviction, shall be deemed duly authenticated

the purposes of this Act if authenticated in manner provided for the time being by law or authenticated as follows

- (1) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued,
- (2) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements or to be true copies thereof, as the case may require, and
- (3) If the certificate of, or judicial document stating the fact of, conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place, and

if in every case the warrants, depositions, statements, copies, certificates and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state. And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

Crime committed at Sea

16 Jurisdiction as to crimes committed at sea—

Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any part of the United Kingdom, the following provisions shall have effect

1. This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate.
2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime.
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendiary magistrate, sheriff or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

Fugitive Criminals in British Possessions.

17. Proceedings as to fugitive criminals in British possessions—This Act, when applied by Order in Council, shall unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications, namely

- (1) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognised by that governor as a consul general, consul, or vice consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency
- (2) No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under this act by, the police magistrate and the Secretary of state, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone
- (3) Any prison in the British possession may be substituted for a prison in Middlesex.
- (4) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal when not conveyed within two months out of such British possession

18 Saving of law of British possessions—If by any law or ordinance made before or after the passing of this Act by the legislature of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, Her Majesty may, by the Order in Council applying this Act in the case of any foreign state or by any subsequent order, either—

- suspend the operation within any such British possession of this Act, or of any part thereof, so far as it relates to such foreign state, and so long as such law or ordinance continue in force there, and no longer;
- or direct that such law or ordinance, or any part of it shall have effect in such British possession,

without modification and alterations, as if it were part of this Act.

General Provisions.

19 Criminal surrendered by foreign state not triable for previous crime—Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of any crime which, if committed in England, would be one of the crimes described in the first schedule to this Act is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

20. As to use of forms in second schedule—The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law

21 Revocation etc., of Order in Council—Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis*, to any such new order.

22 Application of Act in Channel Islands and Isle of Man.—This Act (except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom, and the royal courts of the Channel Islands are hereby respectively authorised and required to register this Act

23 Saving for Indian treaties—Nothing in this Act shall affect the lawful powers of Her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states contiguous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this Act.

24 Power of foreign state to obtain evidence in United Kingdom—The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the Foreign Tribunals Evidence Act, 1856,

and all the provisions of that Act shall be construed as if the term "civil matter" included a criminal matter, and the term "cause" included a proceeding against a criminal. Provided that nothing in this section shall apply in the case of any criminal matter of a political character

25. Foreign state includes dependencies—For the purposes of this Act, every colony dependency and constituent part of a foreign state, and every vessel of that state, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of, and to be part of, such foreign state

26 Definitions of terms—In this Act, unless the context otherwise requires,—

"British possession."—The term 'British possession' means any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession

"Legislature"—The term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature, only

"Governor"—The term 'governor' means any person or persons administering the government of a British possession, and includes the governor of any part of India

"Extradition crime"—The term "extradition crime" means a crime which, if committed in England or within English jurisdiction would be one of the crimes described in the first schedule to this Act

"Conviction:"—The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy

"Fugitive criminal:" **"Fugitive criminal of a foreign state:"**—The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in or is suspected of being in some part of Her Majesty's dominions; and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state

"Secretary of State:"—The term "Secretary of State" means one of Her Majesty's principal Secretaries of State

"Police magistrate,"—The term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow Street

"Justice of the Peace"—The term "justice of the peace" includes in Scotland any sheriff substitute, or magistrate

"Warrant"—The term "warrant," in the case of any foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime

Repeal of Acts.

27. **Repeal of Acts in third schedule.**—The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's dominions, and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign states with which those treaties are made, in the same manner as if an order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect to such treaties should have effect as part of this Act.

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SCHEDULES

FIRST SCHEDULE.¹

List of Crimes

The following list of crimes is to be construed according to the law existing in England, or in a British possession (as the case may be) at the date of the alleged crime, whether by

¹ This definition was repealed as to the United Kingdom by The Statute Law Revision Act 1893

² The proviso to this section was repealed by The Statute Law Revision Act 1883

³ The offence of bribery is deemed to be included in the Schedule by section 1 of The Extradition Act 1906

common law or by statute made before or after the passing of this Act —

Murder, and attempt and conspiracy to murder.

Manslaughter

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered

Embezzlement and larceny

Obtaining money or goods by false pretences

Crimes by bankrupts against bankruptcy law

Fraud by a bailee, banker, agent, factor, trustee, or director or member, or public officer of any company made criminal by any Act for the time being in force.

Rape

Abduction

Child stealing.

Burglary and house breaking.

Arson.

Robbery with violence

Threats by letter or otherwise with intent to extort.

Piracy by law of nations

Sinking or destroying a vessel at sea, attempting or conspiring to do so

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master

SECOND SCHEDULE.

Form of Order of Secretary of State to the Police Magistrate

To the chief magistrate of the metropolitan police court
or other magistrate of the metropolitan police
court in Bow Street [or the stipendiary magistrates
at]

WHEREAS, in pursuance of an arrangement with
referred to in an Order of Her Majesty in Council, dated the
day of , a requisition has been made to
me, , one of Her Majesty's Principal
Secretaries of State, by , the

diplomatic representative of _____, for
 the surrender of _____, late of
 _____, accused [or convicted] of the commission
 of the crime of _____
 within the jurisdiction of _____

Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of the Extradition Act, 1870, relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one
 of Her Majesty's Principal Secretaries of State,
 this _____ day of _____ 18____

Form of Warrant of Apprehension by Order of Secretary of State.

**Metropolitan police district, [or county or borough
 of _____,] to wit**—To all and each of the constables of
 the metropolitan police force [or of the county or
 borough of _____]

WHEREAS the Right Honourable _____,
 one of Her Majesty's Principal Secretaries of State, by order
 under his hand and seal, hath signified to me that requisition
 hath been duly made to him for the surrender of _____,
 late of _____, accused

[or convicted] of the commission of the crime of _____
 within the jurisdiction of _____ This is therefore to com-
 mand you in Her Majesty's name forthwith to apprehend the
 said _____ pursuant to the
 Extradition Act, 1870, wherever he may be found in the United
 Kingdom, or Isle of Man, and bring him before me or some other
 [*magistrate sitting in this court], to show cause why he should
 not be surrendered in pursuance of the said Extradition Act, for
 which this shall be your warrant.

Given under my hand and seal at [*Bow Street, one of
 the police courts of the metropolis] this
 day of _____]18____

J. P.

Form of Warrant of Apprehension without Order of Secretary of State

Metropolitan police district, [or county or borough of] to wit—To all and each of the constables of the metropolitan police force [or of the county or borough of]

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district [or the said county or borough of

] that , late of , is accused [or convicted] of the commission of the crime of within the jurisdiction of

This is therefore to command you in Her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court [or one of Her Majesty's justices of the peace in and for the county [or borough] of] to be further dealt with according to law, for which this shall be your warrant

Given under my hand and seal at Bow Street, one of the police courts of the metropolis, [or in the county or borough aforesaid] this day of 18

J. P

Form of Warrant for bringing Prisoner before the Police Magistrate

County [or borough] of to wit—To constable of the police force of and to all other peace officers in the said county [or borough]

WHEREAS late of accused [or alleged to be convicted] of the commission of the crime of within the jurisdiction of has been apprehended and brought before the undersigned, one of Her Majesty's justices of the peace in and for the said county [or borough] of , And whereas by The Extradition Act 1870, he is required to be brought before the metropolitan police district [or the stipendiary magistrate for

] This is therefore to command you the said constable in Her Majesty's name forthwith to take and convey the said to the metropolitan police district [or the said] and there carry him before the said chief magis-

trate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [or before a stipendiary magistrate sitting in the said] to show cause why he should not be surrendered in pursuance of The Extradition Act, 1870, and otherwise to be dealt with in accordance with law, for which this shall be your warrant

Given under my hand and seal at _____ in
the county [or borough] aforesaid, this
day of _____ 18 .

J. P.

Form of Warrant of Committal

Metropolitan police district [or the county or borough of] to wit—To _____ one of the constables of the metropolitan force, [or of the police force of the county or borough of], and to the keeper of the _____

BE it remembered, that on this _____ day of _____
in the year of our Lord _____

late of _____

police
sitting
tan] police district [or a stipendiary magistrate for _____],
to show cause why he should not be surrendered in pursuance of
The Extradition Act, 1870, on the ground of his being accused [or
convicted] of the commission of the crime of _____
within the jurisdiction of _____, and for as much
as no sufficient cause has been shown to me why he should not be
surrendered in pursuance of the said Act

This is therefore to command you the said constable in Her Majesty's name forthwith to convey and deliver the body of the said _____ into the custody of the said keeper of the _____ at _____, and you, the said keeper, to receive the said _____ into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Extradition Act, for which this shall be your warrant

Given under my hand and seal at Bow Street, one of the
police courts of the metropolis, [or at the said _____] this
day of _____ 18 .

J. P.

Form of Warrant of Secretary of State for Surrender of Fugitive
To the keeper of _____ and _____
to _____

WHEREAS _____ late of _____
accused [or convicted] of the commission of the crime of _____

within the jurisdiction of _____, was
 delivered into the custody of you _____ the
 keeper of _____ by warrant, dated _____
 pursuant to The Extradition Act, 1870

Now I do hereby, in pursuance of the said Act, order you the
 said keeper to deliver the body of the said _____, and I
 into the custody of the said _____ to receive
 command you the said _____ to receive
 the said _____ into your custody, and to convey him
 within the jurisdiction of the said _____, and there
 place him in the custody of any person or persons appointed by
 the said _____ to receive him, for which
 this shall be your warrant

Given under the hand and seal of the undersigned" one of
 Her Majesty's Principal Secretaries of State, this
 day of _____ 18 .

THIRD SCHEDULE

Year and Chapter	Title
1[6 & 7 Vict., c. 75	<i>An Act for giving effect to a convention between Her Majesty and the King of the French for the apprehension of certain offenders.</i>]
6 & 7 Vict., c. 76	An Act for giving effect to a treaty between Her Majesty and the United States of America for the apprehension of certain offenders
1[25 & 26 Vict., c. 70	<i>An Act for giving effect to a convention between Her Majesty and the King of Denmark for the mutual surrender of criminals</i>
29 & 30 Vict., c. 121	An Act for the amendment of the law relating to treaties of extradition

[Preamble and enacting words Repealed as to the United Kingdom
 by the Statute Law Revision Act, 1893]

1 Construction of Act and short title 33 & 34 Vict., c. 52—This Act shall be construed as one with the Extradition

¹ These entries were repealed as to the United Kingdom by The Statute Law Revision Act 1893

² 36 & 37 Vict. c. 54

Act, 1870 (in this Act referred to as the principal Act), and the principal Act and this Act may be cited together as the Extradition Acts, 1870 and 1873, and this Act may be cited alone as the Extradition Act, 1873.

2. Explanation of sec 6 of 33 & 34 Vict. c 52—

Whereas by section 6 of the Principal Act it is enacted as follows

'Where this Act applies in the case of any foreign state, is in or suspected of
ions, or that part which
(as the case may be),
shall be liable to be apprehended and surrendered in manner
provided by this Act, whether the crime in respect of which the
surrender is sought was committed before or after the date of
the order, and whether there is or is not any concurrent jurisdic
tion in any court of Her Majesty's dominions over that crime."

And whereas doubts have arisen as to the application of the said Section to crimes committed before the passing of the principal Act, and it is expedient to remove such doubts, it is therefore hereby declared that—

a crime committed before the date of the order includes in the said section a crime committed before the passing of the principal Act, and the principal Act and this Act shall be construed accordingly

3 [Recital repealed as to the United Kingdom by the Statute
Law Revision Act, 1893]

Every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of being accessory before or after the fact to any extradition crime, shall be deemed for the purposes of the principal Act and this Act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly.

¹⁴ Explanation of sec. 14 of 33 & 34 Vict, c 52, as to statements on oath including affirmations—[Be it declared.

affirmations taken in a foreign state, and copies of such affirmations

5. Power of taking evidence in United Kingdom for foreign criminal matters—A Secretary of State may, by order under his hand and seal, require a police magistrate or a justice of

¹ 56 & 57 Vict c 54

¹ The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act 1893

the peace to take evidence for the purposes of any criminal matter pending in any court or tribunal in any foreign state, and the police magistrate or justice of the peace, upon the receipt of such order, shall take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence, and shall certify at the foot of the depositions so taken that such evidence was taken before him, and shall transmit the same to the Secretary of State, such evidence may be taken in the presence or absence of the person charged if any, and the fact of such presence or absence shall be stated in such deposition.

Any person may, after payment or tender to him of a reasonable sum for his costs and expenses in this behalf, be compelled, for the purposes of this section to attend and give evidence and answer questions and produce documents, in like manner and subject to the like conditions as he may in the case of a charge preferred for an indictable offence.

¹[Every person who wilfully gives false evidence before a police magistrate or justice of the peace under this section shall be guilty of perjury.]

Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

6 Explanation of Sec 16 of 33 & 34 Vict, c. 52.—The jurisdiction conferred by section sixteen of the principal Act on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to and not in derogation or exclusion of, the jurisdiction of the police magistrate.

7 Explanation of diplomatic representative and consul.—For the purposes of the principal Act and this Act a diplomatic representative of a foreign state shall be deemed to include any person recognized by the Secretary of State as a consul general of that state, and a consul or vice consul shall be deemed to include any person recognized by the governor of a British possession as a consular officer of a foreign state.

8 Addition to list of crimes in schedule.—The principal Act shall be construed as if there were included in the first schedule to that Act the list of crimes contained in the schedule to this Act.

SCHEDULE

LIST OF CRIMES¹

The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case

¹ The words in square brackets were repealed as to the United Kingdom by The Perjury Act 1911.

may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this Act

Kidnapping and false imprisonment.

Perjury, and subornation of perjury, whether under common or statute law

Any indictable offence under the Larceny Act, 1861, or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety seven, "To consolidate and amend the statute law of England and Ireland relating to malicious injuries to property," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty fourth and twenty fifth years of the reign of Her present Majesty, chapter ninety eight, "to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety nine, "to consolidate and amend the statute law of the United Kingdom against offences relating to the coin," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the Act of the session of the twenty-fourth and twenty fifth years of the reign of Her present Majesty, chapter one hundred, "to consolidate and amend the statute law of England and Ireland relating to offences against the person," or any Act amending or substituted for the same, which is not included in the first schedule to the principal Act.

Any indictable offence under the law for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal Act

THE EXTRADITION ACT, 1895

(58 & 59 VICT., c 31.)

An Act to amend the Extradition Acts, 1870 and 1873, so far as respects the Magistrate by whom and the place in which the case may be heard and the Criminal held in Custody

[6th July, 1895]

Be it enacted as follows—

1 Hearing case elsewhere than at Bow Street

Where a fugitive criminal has been apprehended in pursuance of a warrant under section eight of the Extradition Act, 1870, and a Secretary of State on representation made by or on behalf of the criminal is of opinion that his removal for the purpose of his case

magistrate as is named in the order, and at the place in the United Kingdom at which the criminal was apprehended, or for the time being is,

is in England, a magistrate, and if it is in Ireland, any stipendiary magistrate, and the magistrate hearing the case in pursuance of the order shall for that purpose be deemed to be a police magistrate within the meaning of the Extradition Act, 1870, and also shall have the same jurisdiction, duties, and powers as near as may be, and may commit to the same prison as if he were a magistrate for the county, borough, or place in which the hearing takes place.

(3) Provided that when the fugitive criminal is committed to prison to await his surrender, the committing magistrate, if of opinion that it will be dangerous to the life or prejudicial to the health of the prisoner to remove him to the prison may order him to be held in custody at the place in which he for the time being is, or any other place named in the order to which the magistrate thinks he can be removed without danger to his life or prejudice to his health, and while so held he shall be deemed to be in legal custody, and the Extradition Acts, 1870 and 1873 shall apply to him as if he were in the prison to which he is committed, and the forms of warrant used under the said Act may be varied accordingly.

2 Short title and construction—This Act may be cited as the Extradition Act, 1895 and shall be construed together with the Extradition Acts, 1870 and 1873 and those Acts and this Act may be cited collectively as the Extradition Acts 1870 to 1895

THE EXTRADITION ACT, 1905.

(6 EDW, c 15)

An Act to include Bribery amongst Extradition Crimes

[4th August, 1906]

WHEREAS a Convention has been concluded between His Majesty and the President of the United States of America

the list of crimes on account of which extradition may be granted certain offences, and amongst other bribery

And whereas it is provided by the said Convention that it shall come into force within ten days after publication in conformity with the laws of the high contracting parties

And whereas bribery is not at present included in the list of crimes in the First Schedule to the Extradition Act, 1870, and the said Convention cannot be published in conformity with the laws of the United Kingdom until bribery is so included,

Be it therefore enacted as follows —

1. Addition of bribery to list of extradition crimes.—The Extradition Act, 1870, shall be construed as if bribery were included in the list of crimes in the First Schedule to that Act

2 Short title—This Act may be cited as the Extradition Act, 1906, and the Extradition Act 1870 to 1895, and this Act may be cited together as the Extradition Acts, 1870 to 1906

THE EXTRADITION ACT, 1932

(22 and 23 Geo 5, Ch. 39.)

(12th July, 1932)

An Act to include offences in relation to dangerous drugs, and attempts to commit such offences, among extradition crimes.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lord Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows —

1 Amendment of 33 and 34 Vict. c 52, Schedule 1—The Extradition Act, 1870, shall be construed as if offences against any enactment for the time being in force relating to dangerous drugs, and attempts to commit such offences, were included in the list of crimes in the First Schedule to that Act

2 Short title and citation—This Act may be cited as the Extradition Act, 1932, and the Extradition Acts, 1870 and 1906, and this Act may be cited together as the Extradition Acts, 1870 to 1932

THE SLAVE TRADE ACT, 1873.

(36 & 37 Vict., c. 88, s. 27.)

27. Extension of 33 & 34 Vict., c. 52, to slave trade offences—Offences committed against this Act, or the enactments with which this Act is to be construed as one or otherwise in connection with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the first schedule to the Extradition Act, 1870, and that Act, and any Act amending the same, shall be construed accordingly.

THE FUGITIVE OFFENDERS ACT, 1881

(44 & 45 Vict., c. 69)

An Act to amend the Law with respect to Fugitive Offenders in Her Majesty's Dominions, and for other Purposes connected with the arrest of Offenders

[47th August, 1881]

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal and commons, in this present Parliament assembled, and by the authority of the same, as follows, (that is to say)

1 Short title—This Act may be cited as the Fugitive Offenders Act, 1881.

PART I

RETURN OF FUGITIVES

2 Liability of fugitive to be apprehended and returned. Where a person accused of having committed an offence (to which this part of this Act applies) in one part of Her Majesty's dominions has left that part, such person (in this Act referred to as a fugitive from that part) is found in another part of Her Majesty's dominions shall be liable to be apprehended and returned in manner provided by this Act to the part from which he is a fugitive

A fugitive may be so apprehended under an endorsed warrant or a provisional warrant

3 Endorsing of warrant for apprehension of fugitive—Where a warrant has been issued in one part of Her Majesty's dominions for the apprehension of a fugitive from that part, any of the following authorities in another part of Her Majesty's dominion in or on the way to which the fugitive is or is suspected to be, (that is to say,)

in that part, or is acquitted of the said offence, then if that part is the United Kingdom a Secretary of State, and if that part is a British possession the governor of that possession may, if he think fit, on the request of such person, cause him to be sent back free of cost and with as little delay as possible to the part of Her Majesty's dominions in or on his way to which he was apprehended

9 Offences to which this part of this Act applies—This part of this Act shall apply to the following offences, namely, to treason and piracy, and to every offence, whether called felony, misdemeanour, crime, or by any other name, which is for the time being punishable in the part of Her Majesty's dominions in which it was committed, either on indictment or information, by imprisonment with hard labour for a term of twelve months or more, or by any greater punishment, and for the purposes of this section, rigorous imprisonment, and any confinement in a prison combined with labour by whatever name it is called, shall be deemed to be imprisonment with hard labour

This part of this Act shall apply to an offence notwithstanding that by the law of the part of Her Majesty's dominions in or on his way to which the fugitive is or is suspected of being it is not an offence, or not an offence to which this part of this Act applies, and all the provisions of this part of this Act including those relating to a provisional warrant and to a committal to prison shall be construed as if the offence were in such last-mentioned part of Her Majesty's dominions an offence to which this part of this Act applies

10 Powers of superior court to discharge fugitive when case frivolous or return unjust—Where it is made to appear to a superior court that by reason of the trivial nature of the case, or by the reason of the application for the return of a fugitive not being made in good faith in the interests of justice or otherwise, it would have regard to the distance, to the facilities for communication, and to all the circumstances of the case, be unjust or oppressive or too severe a punishment to return the fugitive either at all or until the expiration of a certain period, such court may discharge the fugitive, either absolutely or on bail, or order that he shall not be returned until after the expiration of the period named in the order or may make such other order in the premises as to the court seems just

11. Power of Lord Lieutenant in Ireland.—In Ireland the Lord Lieutenant ¹[or Lord Justices of the chief governor or governors of Ireland] also the chief secretary ¹[of such Lord Lieutenant] may, as well as a Secretary of State, execute any portion of the powers by this part of this Act vested in a Secretary or State

¹ The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act 1824

PART II

INTER COLONIAL BACKING OF WARRANTS, AND OFFENCES.

Application of Part of Act

12 Application of part of Act to group of British possessions—This part of this Act shall apply only to those groups of British possessions to which, by reason of their contiguity or otherwise, it may seem expedient to Her Majesty to apply the same.

It shall be lawful for Her Majesty from time to time by Order in Council to direct that this part of this Act shall apply to the group of British possessions mentioned in the Order, and by the same or subsequent Order to except certain offences from the application of this part of this Act, and to limit the application of this part of this Act by such conditions, exceptions, and qualifications as may be deemed expedient

Backing of Warrants

13 Backing in one British possession of warrant issued in another of same group.—Where in a British possession of a group to which this part of this Act applies a warrant has been issued for the apprehension of a person accused of an offence punishable by law in that possession, and such person is or is suspected of being in or on the way to another British possession of the same group, a magistrate in the last-mentioned possession, if satisfied that the warrant was issued by a person having lawful authority to issue the same, may endorse such warrant in manner provided by this Act, and the warrant so endorsed shall be a sufficient authority to apprehend, within the jurisdiction of the endorsing magistrate, the person named in the warrant, and bring him before the endorsing magistrate or some other magistrate in the same British possession

Notes.

If a magistrate did not endorse a warrant after satisfying himself that it was properly issued under Section 13 of the Act the arrest and the subsequent proceedings are not legal and therefore the amount by the sureties must be returned to them 11 Cr L J 622 81 C 301

14 Return of prisoner apprehended under backed warrant—The magistrate before whom a person so apprehended is brought, if he is satisfied that the warrant is duly authenticated as directed by this Act and was issued by a person having lawful authority to issue the same, and is satisfied on oath that the prisoner is the person named or otherwise described in the warrant may order such prisoner to be returned to the British possession in which the warrant was issued, and for that purpose to be delivered into the custody of the person to whom the warrant is addressed, or any one or more of them, and to be held in custody and conveyed by sea or otherwise into the British possession in which the warrant was issued, there to be dealt with according to 1

if he had been there apprehended. Such order for return may be made by warrant under the hand of the magistrate making it, and may be executed according to the tenor thereof

A magistrate shall, so far as it is requisite for the exercise of the powers of this section, have the same power, including the powers to remand and admit to bail a prisoner, as he has in the case of a person apprehended under a warrant issued by him

15 Backing in one British possession of summons, &c, of witness issued in another possession of same group—Where a person required to give evidence on behalf of the prosecutor or defendant on charge for an offence punishable by law in a British possession of a group to which this part of this Act applies, is or is suspected of being in or on his way to any other British possession of the same group, a judge, magistrate, or other officer who would have lawful authority to issue a summons, requiring the attendance of such witness, if the witness were within his jurisdiction, may issue a summons for the attendance of such witness, and a magistrate in any other British possession of the same group, if satisfied that the summons was issued by some judge, magistrate, or officer having lawful authority as aforesaid, may endorse the summons with his name, and the witness, on service in that possession of the summons, so endorsed, and on payment or tender of reasonable amount for his expenses, shall obey the summons, and in default shall be liable to be tried and punished either in the possession in which he is served or in the possession in which the summons was issued, and shall be liable to the punishment imposed by the law of possession in which he is tried for the failure of witness to obey such a summons. The expression 'summons' in this section includes any subpoena or other process for requiring the attendance of a witness

16 Provisional warrant in group of British possessions.—

issue a provisional warrant under such circumstances as would in his opinion justify the issue of a warrant if the offence of which such person is accused were an offence punishable by the law of the said possession, and had been committed within his jurisdiction, and such warrant may be backed and executed accordingly provided that a person arrested under such provisional warrant shall be discharged unless the original warrant is produced and endorsed within such reasonable time as may under the circumstance seem requisite.

17. Discharge of prisoner not returned within one month to British possession of same group.—If a prisoner in a British possession whose return is authorised in pursuance of this part of this Act is not conveyed out of that possession within one month after the

istrate or a superior prisoner, and upon make such application has been given to the person holding the warrant and to the chief officer of the police of such possession or of the province or town where the prisoner is in custody may, unless sufficient cause is shown to the contrary, order such prisoner to be discharged out of custody.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to appeal to a superior court.

18 Sending back of prisoner not prosecuted or acquitted to British possession of same group—Where a prisoner accused of an offence is returned in pursuance of this part of this Act to a British possession, and either is not prosecuted for the said offence within six months after his arrival in that possession or is acquitted of the said offence, the governor of the possession if he thinks fit, may, on the requisition of such person, cause him to be sent back, free of cost, and with as little delay as possible, to the British possession in or on his way to which he was apprehended.

19. Refusal to return prisoner where offence too trivial.—Where the return of a prisoner is sought or ordered under this part of this Act, and it is made to appear to a magistrate or to a superior court that by reason of the trivial nature of the case, or by reason of the application for the return of such prisoner not being made in good faith in the interest of justice or otherwise, it would, having regard to the distance, to the facilities of communication, and to all the circumstances of the case, be unjust or oppressive, or too severe a punishment, to return the prisoner either at all or until the expiration of a certain period, the court or magistrate may discharge the prisoner either absolutely or on bail or order that he shall not be returned until after the expiration of the period named in the order, or may make such other order in the premises as to the magistrate or court seems just.

Any order or refusal to make an order of discharge by a magistrate under this section shall be subject to an appeal to a superior court.

Notes.

Justifiability of arrest cannot be looked into If the case is trivial magistrate can act under s 19 1933 M 503 (1)

PART III.

TRIAL, &c., OF OFFENCES.

20 Offences committed on boundary of two adjoining British possessions—Where two British possessions adjoin, a person accused of an offence committed on or within the distance of five hundred yards from the common boundary of such possessions may be apprehended, tried, and punished in either of such possessions.

21 Offences committed on journey between two British possessions—Where an offence is committed on any person or in respect of any property in or upon any carriage, cart, or vehicle whatsoever employed in a journey, or on board any vessel whatsoever employed in a navigable river, lake, canal, or inland navigation, the person accused of such offence may be tried in any British possession through a part of which such carriage, cart, vehicle, or vessel passed in the course of the journey or voyage during which the offence was committed, and where the side, bank, centre, or other part of the road, river lake, canal, or inland navigation along which the carriage, cart, vehicle, or vessel passed in the course of such journey or voyage is the boundary of any British possession, a person may be tried for such offence in any British possession of which it is the boundary

Provided that nothing in this section shall authorise the trial for such offence of a person who is not a British subject, where it is not shown that the offence was committed in a British possession

22 Trial of offence of false swearing or giving false evidence—A person accused of the offence (under whatever name it is known) of swearing or making any false deposition, or of giving or fabricating any false evidence, for the purposes of this Act, may be tried either in the part of Her Majesty's dominions in which such deposition or evidence is used, or in the part in which the same was sworn, made, given, or fabricated, as the justice of the case may require

23. Supplemental provision as to trial of person in any place—Where any part of this Act provides for the place of trial of a person accused of an offence that offence shall, for all

officer with reference to such offence, and to any person accused of such offence, be deemed to have been committed in any place in which the person accused of the offence can be tried for it, and such person may be punished in accordance with the Courts (Colonial) Jurisdiction Act, 1874.

24 Issue of search warrant—Where a warrant for the apprehension of a person accused of an offence has been endorsed in pursuance of any part of this Act in any part of Her Majesty's dominions, or where any part of the Act provides for the place of trial of a person accused of an offence, every court and magistrate of the part in which the warrant is endorsed or the person accused of the offence can be tried, shall have the same power of issuing a warrant to search for any property alleged to be stolen or to be otherwise unlawfully taken or obtained by such person, or otherwise to be the subject of such offence, as that court or magistrate would have if the property had been stolen or otherwise unlawfully taken or obtained, or the offence had been committed wholly within the jurisdiction of such court or magistrate

25. Removal of prisoner by sea from one place to another—Where a person is in legal custody in a British possession either in pursuance of this Act or otherwise, and such person is required to be removed in custody to another place in or belonging to the same British possession such person, if removed by sea in a vessel belonging to Her Majesty or any of Her Majesty's subjects, shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed, and the provisions of this Act with respect to the retaking of a prisoner who has escaped, and with respect to the trial and punishment of a person guilty of the offence of escaping or attempting to escape, or aiding or attempting to aid a prisoner to escape, shall apply to the case of a prisoner escaping while being lawfully removed as aforesaid, in like manner as if he were being removed in pursuance of a warrant endorsed in pursuance of this Act

PART IV.

SUPPLEMENTAL

Warrants and Escape

26 Endorsement of warrant—An endorsement of a warrant in pursuance of this Act shall be signed by the authority endorsing the same, and shall authorise all or any of the persons named in the endorsement, and of the persons to whom the warrant was originally directed, and also every constable, to execute the warrant within the part of Her Majesty's dominions or place within which such endorsement is by this Act made a sufficient authority, by apprehending the person named in it, and bringing him before some magistrate in the said part or place whether the magistrate named in the endorsement or some other,

For the purposes of this Act every warrant, summons, subpoena, and process, and every endorsement made in pursuance of this Act thereon, shall remain in force, notwithstanding that the person signing the warrant or such endorsement dies or ceases to hold office.

27 Conveyance of fugitives and witnesses—Where a fugitive or prisoner is authorised to be returned to any part of Her Majesty's dominions in pursuance of Part One or Part Two of this Act, such fugitive or prisoner may be sent thither in any ship belonging to Her Majesty or to any of her subjects.

For the purpose aforesaid, the authority signing the warrant for the return may order the master of any ship belonging to any subject of Her Majesty bound to the said part of Her Majesty's dominions to receive and afford a passage and subsistence during the voyage to such fugitive or prisoner, and to the person having him in custody and to the witnesses so that such master be not required to receive more than one fugitive or prisoner for every hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage.

The said authority shall endorse or cause to be endorsed upon the agreement of the ship such particulars with respect to any fugitive prisoner or witness sent in her as the Board of Trade from time to time require

Every master shall, on his ship's arrival in the said part of Her Majesty's dominions, cause such fugitive or prisoner, if he is not in the custody of any person, to be given into the custody of some constable, there to be dealt with according to law.

Every master who fails, on payment or tender of a reasonable amount for expenses, to comply with an order made in pursuance of this section or to cause a fugitive or prisoner committed to his charge to be given into custody as required by this section, shall be liable on summary conviction to a fine not exceeding fifty pounds, which may be recovered in any part of Her Majesty's dominions in like manner as a penalty of the same amount under the Merchant Shipping Act, 1854,¹ and the Acts amending the same

28 Escape of prisoner from custody—If a prisoner escape by breach of prison or otherwise, out of the custody of a person acting under a warrant issued or endorsed in pursuance of this Act, he may be retaken in the same manner as a person accused of a crime against the law of that part of Her Majesty's dominions to which he escapes may be retaken upon an escape.

¹ 17 & 18 Vict. c. 104. See now 57 & 58 Vict. c. 60

to or of attempting
 by prisoner to escape,
 custody under any
 warrant issued or endorsed in pursuance of this Act, may be tried
 in any of the following parts of Her Majesty's dominions, namely
 the part to which and the part from which the prisoner is being
 removed, and the part in which the prisoner escapes, and the
 part in which the offender is found

Evidence.

29. Depositions to be evidence and authentication of depositions and warrants.—A magistrate may take depositions for the purposes of this Act in the absence of a person accused of an offence in like manner as he might take the same if such person were present and accused of the offence before him.

Depositions (whether taken in the absence of the fugitive or otherwise) and copies thereof, and official certificates of or judicial documents stating facts, may, if duly authenticated, be received in evidence in proceedings under this Act

Provided that nothing in this Act shall authorise the reception of any such depositions, copies, certificates, or documents in evidence against a person upon his trial for an offence.

Warrants and depositions, and copies thereof, and official certificates of or judicial documents stating facts, shall be deemed duly authenticated for the purposes of this Act if they are authenticated in manner provided for the time being by law, or authenticated by the signature of the part of Her Majesty's issued, taken, or made, and are authenticated either by the oath of some witness, or by being sealed with the official seal of a Secretary of State, or with the public seal of British possession, or with the official seal of a governor of a British possession, or of a colonial secretary, or of some secretary or minister administering a department of the government of a British possession

And all courts and magistrates shall take judicial notice of every such seal as is in this section mentioned, and shall admit in evidence without further proof the documents authenticated by it.

Miscellaneous.

30. Provision as to exercise of jurisdiction by magistrates.—The jurisdiction under Part One of this Act to hear a case and commit a fugitive to prison to await his return shall be exercised,—

- (1) In England, by a chief magistrate of the metropolitan police courts or one of the other magistrates of the metropolitan police court at Bow Street, and
- (2) In Scotland, by the sheriff or sheriff substitute of the county of Edinburgh and
- (3) In Ireland, by one of the police magistrates of the Dublin metropolitan police district, and
- (4) In a British possession by any judge, justice of the peace or other officer having the like jurisdiction as one of the magistrates of the metropolitan police court in Bow Street or by such other court judge, or magistrate as may be from time to time provided by an Act or ordinance passed by the legislature of that possession

If a fugitive is apprehended and brought before a magistrate who has no power to exercise the jurisdiction under this Act in respect of that fugitive, that magistrate shall order the fugitive to be brought before some magistrate having that jurisdiction and such order shall be obeyed

31 Power as to making and revocation of Orders in Council—It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made and every Order so made shall while it is in force have the same effect as if it were enacted in this Act

An Order in Council made for the purpose of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or if not, as soon as may be after the commencement of the then next session of Parliament

32 Power of legislature of British possession to pass laws for carrying into effect this Act—If the legislature of a British possession pass any Act or ordinance—

- (1) For defining the offences committed in that possession to which this Act or any part thereof is to apply,
or
- (2) For determining the court, judge, magistrate, officer, or person by whom and the manner in which any jurisdiction or power under this Act is to be exercised,
or
- (3) For payment of the costs incurred in returning a fugitive or a prisoner, or in sending him back if not prosecuted or if acquitted, or otherwise in the execution of this Act, or

- (4) In any manner for the carrying of this Act or any part thereof into effect in that possession,

it shall be lawful for Her Majesty by Order in Council to direct, if it seem to Her Majesty in Council necessary or proper for carrying into effect the objects of this Act, that such Act or ordinance, any part thereof, shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act

Application of Act

33 Application of Act to offences at sea or triable in several parts of Her Majesty's dominions—Where a person accused of an offence can, by reason of the nature of the offence or of the place in which it was committed, or otherwise be, under this Act or otherwise, tried for or in respect of the offence in more than one part of Her Majesty's dominions, a warrant for the apprehension of such person may be issued in any part of Her Majesty's dominions in which he can, if he happens to be there, be tried, and each part of this Act shall apply as if the offence had been committed in the part of Her Majesty's dominions where such warrant is issued, and such person may be apprehended and returned in pursuance of this Act notwithstanding that in the place in which he is apprehended a court has jurisdiction to try him

Provided that, if such person is apprehended in the United Kingdom, a Secretary of State, and if he is apprehended in a British possession, the governor of such possession, may if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do, order such person to be tried in the part of Her Majesty's dominions in which he is apprehended, and in such case any warrant previously issued for his return shall not be executed.

Note.

The word return in S 33 is not to be read as implying that the offender is a fugitive from the country to which he is being sent for trial 1928 Sind 161=112 I C 673=79 Cr L J 1089

34 Application of Act to convicts—Where a person convicted by a court in any part of Her Majesty's dominions of an offence committed either in Her Majesty's dominions or elsewhere, of his sentence, each part of this Act shall apply to him, so far as it applies to a person accused of the like offence committed in the part of Her Majesty's dominions in which such person was convicted

35 Application of Act to removal of person triable in some part of Her Majesty's dominions.—Where a

y in some part of Her Majesty's dominions, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under this Act or otherwise be tried in some other part of Her Majesty's dominions, in such case a superior court, and also if such person is in the United Kingdom a Secretary of State, and if he is in a British possession the governor of that possession, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do may by warrant direct the removal of such offender to some other part of Her Majesty's dominions in which he can be tried, and the offender may be returned, and, if not prosecuted or acquitted, sent back free of cost in like manner as if he were a fugitive returned in pursuance of Part One of this Act, and the warrant were a warrant for the return of such fugitive, and the provisions of this Act shall apply accordingly.

36. Application of Act to foreign jurisdiction—It shall be lawful for Her Majesty from time to time by Order in Council the conditions, in the Order, any Her Majesty has jurisdiction, and which is named in the Order were a British possession, and to provide for carrying into effect such application

37 Application of Act to, and execution of warrant in United Kingdom, Channel Islands, and Isle of Man—This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and of the United Kingdom, and the United impose of warrant - ecuted in every place in the United Kingdom and the said islands accordingly.

38 Application of Act to past offences—This Act shall apply where an offence is committed before the commencement of this Act, or, in the case of Part Two of this Act, before the application of that part to a British possession or to the offence, in like manner as if such offence had been committed after such commencement or application.

Definitions and Repeal

39 Definition of terms—In this Act, unless the context otherwise requires,—

"Secretary of State." ¹[The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State]

"British possession."—The expression "British possession" means any part of Her Majesty's dominions, exclusive of the United Kingdom, the Channel Islands and Isle of Man, all territories and places within Her Majesty's dominions which are under one legislature shall be deemed to be one British possession and one part of Her Majesty's dominions

"Legislature"—The expression "legislature," where there are local legislatures as well as a central legislature, means the central legislature only

"Governor"—The expression "governor" means any person or persons administering the government of a British possession, and includes the governor and lieutenant-governor of any part of India

"Constable"—The expression "constable" means, out of England, any policeman or officer having the like powers and duties as a constable in England

"Magistrate."—The expression "magistrate" means, except in Scotland, any justice of the peace, and in Scotland means a sheriff or sheriff substitute, and in the Channel Islands, Isle of Man, and a British possession means any person having authority to issue a warrant for the apprehension of persons accused of offences and to commit such persons for trial

"Offence punishable on indictment"—The expression 'offence punishable on indictment' means, as regards India, an offence punishable on a charge or otherwise

"Oath"—The expression "oath" includes affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing, and the expression 'swear' and other words relating to an oath or swearing shall be construed accordingly

"Deposition"—The expression "deposition" includes any affidavit, affirmation, or statement made upon oath as above defined.

"Superior court"—The expression "superior court" means

¹ The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act, 1894

35 Application of Act to removal of person triable in more than one part of Her Majesty's dominions.—Where a person accused of an offence is in custody in some part of Her Majesty's dominions, and the offence is one for or in respect of which, by reason of the nature thereof or of the place in which it was committed or otherwise, a person may under this Act or otherwise be tried in some other part of Her Majesty's dominions, in such case a superior court, and also if such person is in the United Kingdom a Secretary of State, and if he is in a British possession the governor of that possession, if satisfied that, having regard to the place where the witnesses for the prosecution and for the defence are to be found, and to all the circumstances of the case, it would be conducive to the interests of justice so to do may by warrant direct the removal of such offender to some other part of Her Majesty's dominions in which he can be tried, and the offender may be returned, and, if not prosecuted or acquitted, sent back free of cost in like manner as if he were a fugitive returned in pursuance of Part One of this Act, and the warrant were a warrant for the return of such fugitive, and the provisions of this Act shall apply accordingly.

36 Application of Act to foreign jurisdiction—It shall be lawful for Her Majesty from time to time by Order in Council to direct that this Act shall apply as if subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of Her Majesty's dominions in which Her Majesty has jurisdiction, and which is named in the Order were a British possession, and to provide for carrying into effect such application

37 Application of Act to, and execution of warrant in United Kingdom, Channel Islands, and Isle of Man—This Act shall extend to the Channel Islands and Isle of Man as if they — — — — — United Kingdom, and the United
be deemed for the purpose of
Majesty's dominions, and a warrant
endorsed in pursuance of Part One of this Act may be executed in every place in the United Kingdom and the said islands accordingly.

38 Application of Act to past offences—This Act shall apply where an offence is committed before the commencement of this Act, or, in the case of Part Two of this Act, before the application of that part to a British possession or to the offence, in like manner as if such offence had been committed after such commencement or application.

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"Legislature"—The expression "legislature," where there are local legislatures as well as a central legislature, means the central legislature only

"Governor."—The expression "governor" means any person or persons administering the government of a British possession, and includes the governor and lieutenant-governor of any part of India

"Constable"—The expression "constable" means, out of England, any policeman or officer having the like powers and duties as a constable in England

"Magistrate."—The expression "magistrate" means, except in Scotland, any justice of the peace, and in Scotland means a sheriff or sheriff substitute, and in the Channel Islands, Isle of Man, and a British possession means any person having authority to issue a warrant for the apprehension of persons accused of offences and to commit such persons for trial

"Offence punishable on indictment"—The expression "offence punishable on indictment" means, as regards India, an offence punishable on a charge or otherwise.

"Oath"—The expression "oath" includes affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing, and the expression "swear" and other words relating to an oath or swearing shall be construed accordingly

"Deposition."—The expression "deposition" includes any affidavit, affirmation, or statement made upon oath as above defined.

"Superior court."—The expression "superior court" means

¹ The words in square brackets were repealed as to the United Kingdom by The Statute Law Revision Act, 1894.

- (1) In England, Her Majesty's Court of Appeal and High Court² of Justice, and
- (2) In Scotland, the High Court of Judiciary, and
- (3) In Ireland, Her Majesty's Court of Appeal and Her Majesty's High Court² of Justice at Dublin, and
- (4) In a British possession, any court having in that possession the like criminal jurisdiction to that which is vested in the High Court² of Justice in England, or such court or judge as may be determined by any Act or ordinance of that possession.

40.² Commencement of Act—This Act shall come into operation on the first day of January, one thousand eight hundred and eighty two, which date is in this Act referred to as the commencement of this Act

41.² Repeal of Act in Schedule.—The Act specified in the schedule to this Act is hereby repealed as from the commencement of this Act

Provided that this repeal shall not affect—

- (a) Any warrant duly endorsed or issued, nor anything duly done or suffered before the commencement of this Act, nor
- (b) Any obligation or liability incurred under an enactment hereby repealed, nor
- (c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed, nor
- (d) Any legal proceeding or remedy in respect of any such warrant, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such warrant may be endorsed and executed, and any such legal proceeding and remedy may be carried on, as if this Act had not passed.

¹The words of Justice were repealed as to the United Kingdom by The Statute Law Revision Act 1893

²Section 40 was repealed as to the United Kingdom by The Law Revision Act 1893

³Section 41 was repealed as to the United Kingdom by The Statute Law Revision Act 1894

SCHEDULE ¹

Year and Chapter	Title
6 & 7 Vict., c. 34	An Act for the better apprehension of certain offenders

THE FUGITIVE OFFENDERS (PROTECTED STATES)

ACT, 1915.

(5 & 6 Geo. V., c. 39)

An Act to enable the Fugitive Offenders Act, 1881, to be extended to Protected States.

[19th May, 1915]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows —

1. Application of 44 and 45 Vict. c. 69 to protected states.—It shall be lawful for His Majesty by Order in Council to direct that the Fugitive Offenders Act, 1881, shall apply as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place or group of places over which His Majesty extends his protection, and which is named in the Order, were a British possession, and to provide for the carrying into effect of such application.

2. Short title and construction.—This Act may be cited as the Fugitive Offenders (Protected States) Act, 1915, and shall be construed as one with the Fugitive Offenders Act, 1881, and that Act and this Act shall be cited together as the Fugitive Offenders Acts, 1881 and 1915.

¹The Schedule was repealed as to the United Kingdom by The Statute Law Revision Act 1894

APPENDIX "C".

List of "Foreign States," i. e., Countries which concluded Extradition Treaties and to which the Extradition Acts have been applied by Order in Council.

Foreign State.	Date of Treaty.	Date of Order in Council.
Argentine Republic ...	22 May 1889 ...	29 January 1894.
Austria ...	3 December 1873	17 March 1874.
Do. ...	26 June 1901 ...	15 September 1902.
Belgium ...	29 October 1901 ...	6 March 1902.
Do. ...	5 March 1907 ...	6 July 1907.
Do. ...	3 March 1911 ...	8 August 1911.
Do. ¹ ...	8 August 1923 ...	16 January 1924.
Bolivia ...	22 February 1891	20 October 1898.
Brazil ...	13 November 1872	20 November 1873.
Chile Republic ...	26 January 1897 ...	9 August 1898.
Colombia ..	27 October 1888 ...	28 November 1889.
Cuba ...	3 October 1904 ...	10 May 1905.
Denmark ...	31 March 1873 ...	26 June 1873.
Ecuador ...	20 September 1880	26 June 1886.
Esthonia ¹ ...	18 November 1925	28 June 1926.
Finland ...	30 May 1924 ...	2 May 1925.
Franco ...	14 August 1889 ...	16 May 1878.
Do. [Declaration as to Tunis]	31 December 1873	1 May 1890.
Do. Convention ..	13 February 1896	22 February 1896.
Do. do. ...	17 October 1908 ...	2 December 1909.
Do. [Declaration as to Tunis.]	29 July 1909 ...	2 December 1909.
Germany ...	14 May 1872 ...	25 June 1872.
Do. Dependencies	5 May 1894 ...	2 February 1895.
Greece ...	11-24 September 1910	13 February 1912.
Guatemala ...	4 July 1885 ...	26 November 1886.
Haiti ...	7 December 1874	5 February 1876.
Hungary ...	3 December 1873	17 March 1874.
Italy ...	5 February 1873	24 March 1878.
Do. Declaration ...	7 May 1873
Latvia ...	16 July 1924 ...	12 October 1925.
Liberia ...	16 December 1892	10 March 1894.
Luxemburg ...	24 November 1880	2 March 1881.

¹Notice has not yet been given on behalf of India that this treaty is applicable to her.

Foreign State	Date of Treaty.	Date of Order in Council
Mexico	7 September 1886	6 April 1889
Monaco	17 December 1891	9 May 1892
Netherlands	26 September 1898	2 February 1899
Nicaragua	19 April 1905	11 May 1906
Norway	26 June 1873	30 September 1873
Norway	18 February 1907	6 July 1907
Panama	25 August 1906	12 August 1907
Paraguay	12 September 1908	5 July 1911
Peru	26 January 1904	7 May 1907
Portugal	17 October 1892	3 March 1894
Protocol [Treaty not to apply to Indian possessions]	30 November 1892	
Roumania	21 March 1893	30 April 1894
Russia	24 November 1886	7 March 1887
Salvedor	23 June 1881	16 December 1882
San Marino	16 October 1899	3 March 1900
Servia	6 December 1900	15 June 1901
Siam	4 March 1911	10 November 1911
Spain	4 June 1878	27 November 1878
Do Declaration	19 February 1889	28 May 1889
Sweden	26 June 1893	30 September 1873
Do	2 July 1907	12 August 1907
Switzerland	26 November 1880	18 May 1881
Do	29 June 1904	29 May 1905
Tonga	29 November 1879	30 November 1882
Do Protocol	3 July 1882	No Order in Council application provided for by Extradition Act 1870 sec 27
United States	9 August 1842	21 March 1890
Do Convention	12 July 1889	26 June 1901
Do	13 December 1900	11 February 1907
Do	12 April 1905	5 March 1885
Uruguay	26 March 1884	24 November 1891
Do Protocol	20 March 1891	

APPENDIX "D."

SELECTED TREATIES WITH "FOREIGN" STATES.

AUSTRIA HUNGARY

- 1 Date of Treaty, December 3rd, 1873.
Date of Order in Council, March 17th, 1874
- 2 Amending Declaration, June 26th, 1901.
(reproduced *in loco*).
Date of Order in Council, September, 15th, 1902.

Article I

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party under the circumstances and conditions stated in the present Treaty.

Article II.

The crimes for which the extradition is to be granted are the following —

1. Murder, or attempt to murder.
2. Manslaughter.
3. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.
4. Forgery or counterfeiting, or altering or uttering what is forged or counterfeited or altered comprehending the crimes designated in the Austrian Penal Laws or in the Hungarian Penal Laws and Customs as counterfeiting or falsification of paper money, bank notes, or other securities, forgery or falsification of other public or private documents, likewise the uttering of bringing into circulation, or wilfully using such counterfeited, forged, or falsified papers.

The definition is to be determined accordingly with the Austrian Penal Laws if the extradition shall take place from Austria, and accordingly with the Hungarian Penal Laws and Customs if the extradition shall take place from Hungary.

- 5 Embezzlement or larceny
6. Obtaining money or goods by false pretences
7. Crimes against bankruptcy law comprehending the crimes considered as frauds committed by the bankrupt in connection with the bankruptcy, according with the Austrian Penal

Laws if the extradition shall take place from Austria, and with the Hungarian Penal Laws if the extradition shall take place from Hungary

8. Fraud by a bailee, banker, agent, factor, trustee, or director or member or public officer of any company, made criminal by any law for the time being in force

9 Rape

10 Abduction

11 Child stealing, kidnapping and false imprisonment.

12 Burglary or house breaking

13 Arson

14 Robbery with violence or with menaces

15 Threats by letter or otherwise with intent to extort

16 Sinking or destroying a vessel at sea, or attempting to do so

17 Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

19 Perjury or subornation of perjury

20 Malicious injury to property if the offence be indictable

The extradition is also to take place for participation in any of the aforesaid crimes, as accessory either before or after the fact, provided such participation be punishable by the laws of both the Contracting Parties

In all these cases the extradition will only take place from the Austro Hungarian States when the crimes, if committed in Austria, would according to Austrian law, constitute a "Verbrechen," or, if committed in Hungary, would, according to the laws of that country, constitute a crime punishable by the laws of that country.

Extradition Acts of 1870 and 1873.

Article III

In no case and on no grounds whatever shall the High Contracting Parties be held to concede the extradition of their own subject

Article IV

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the

claimed on the part of the Government of Austria Hungary, has already been tried and discharged or punished, or is still under trial, in the Austro Hungarian dominions, or in the United Kingdom respectively, for the crime for which his extradition is demanded

If the person claimed on the part of the Government of the United Kingdom or if the person claimed on the part of the Government of Austria-Hungary, should be under examination for any other crime in the Austro Hungarian dominions, or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him

Should an individual whose extradition is demanded be at litigation, or be detained in the country on account of private obligations, his surrender shall nevertheless be made, the injured party retaining the right to prosecute his claims before the competent authority.

Article V

The extradition shall not take place if, with respect to the crime for which it is demanded, and according to the laws of the country applied to, criminal prosecution and punishment has lapsed

Article VI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for the surrender has in fact, been made with a view to try or punish him for an offence of a political character

Article VII

If an individual whose extradition is demanded by either of the High Contracting Parties, in accordance with the terms of this Treaty, be also claimed by one or several other Powers on account of other crimes committed on their territory, he shall be surrendered to the Government in whose territory his gravest crime was committed, and if his crimes are all of the same gravity, or a doubt exists as to which is the gravest, to the Government which first made application for his surrender.

Article VIII.

A surrendered person shall in no case be kept in arrest or subject to examination in the State to which he has been surrendered on account of another previous crime, or any other grounds than those of his surrender, unless such person has, after his surrender had an opportunity of returning to the

country whence he was surrendered, and has not made use of this opportunity, or unless he, after having returned there, re-appears in the country to which he has already been surrendered.

This stipulation does not refer to crimes committed after surrender

Article IX

Requisition for surrender shall be made by the Diplomatic Agents of the High Contracting Parties

To the requisition for the surrender of an accused person there must be attached a warrant issued by the competent authorities of the State which demands extradition, and such proofs as would according to the laws of the place where the accused was found, justify his arrest if the crime had been committed there.

If the requisition refers to a person already convicted, the sentence passed by the competent Tribunal of State demanding his surrender must be produced.

No requisition for surrender can be based on a conviction *in contumaciam*

Article X

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive

The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case just as if the apprehension had taken place for a crime committed in the same country

Article XI.

A fugitive criminal may, however in urgent cases be arrested under a warrant of a Police Magistrate, Judge of the Peace or of any other competent authority in either country, on such information or complaint, or such evidence as would, in the opinion of the person issuing the warrant, justify the issue of a warrant if the crime had been committed or the prisoner convicted in the district in which the authority happens to be, provided, however, that he shall be discharged if, within the shortest time possible, and at the utmost within one month,* a requisition for his surrender in accordance with the terms of Article IX of this Treaty is not made by the Diplomatic Agent of the State which demands his extradition

*As altered by declaration of June 26th 1901

Article XII

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition

Article XIII

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

Article XIV.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

Article XV.

All articles to be surrendered to the competent authority for the delivery thereof, and this delivery shall extend not only to property of the accused, and to the effects of the same, as a proof of the consequence of the delivery of the above-mentioned objects shall take place nevertheless.

Article XVI

Each of the Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons to be surrendered, in pursuance of this Treaty.

Article XVII

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possession of Her Britannic Majesty,

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of Austria Hungary in such Colony or possession

Such requisitions may be disposed of subject always, as nearly as may be, to the provisions of this Treaty by the said Governor or chief authority, who however, shall be at liberty either to grant the surrender or to refer the matter to his Government

Her Britannic Majesty shall however be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Austr Hungarian criminals who may take refuge with in such Colonies and foreign possessions on the basis, as nearly as may be of the provisions of the present Treaty

The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty

Article XVIII

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination

BELGIUM

1. **Date of Treaty** October 19th, 1901.
Date of Order in Council, March 6th, 1902
2. **Supplementary Convention** dated March 5th, 1907
Date of Order in Council July 6th, 1907.
3. **Futher Convention** dated March 3rd, 1911
Date of Order in Council August 8th 1911

Article I

It is agreed that His Britannic Majesty and His Majesty the King of the Belgians shall on requisition made in their name by their respective Diplomatic Agents deliver up to each other reciprocally, under the circumstances and conditions stated in the present Treaty, any persons who, being accused or convicted as principal or accessories, of any of the crimes hereinafter

specified, committed within the territories of the requiring party, shall be found within the territories of the other party —

1 Murder (including assassination, parricide, infanticide, poisoning) or attempt or conspiracy to murder, in cases jointly provided for by the laws of the two countries

2 Administering drugs or using instruments with intent to procure the miscarriage of women.

3 Manslaughter.

4. Bigamy.

5. (a) Counterfeiting or altering money, or uttering counterfeit or altered money.

(b) Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the Realm.

6 Abandoning children, exposing or unlawfully detaining them

7. Forgery, counterfeiting, or altering or uttering what is forged, or counterfeited or altered.

8 Any malicious act done with intent to endanger persons in a railway train.

9 Embezzlement of larceny.

10 Receiving any chattel, money, valuable security or other property, knowing the same to have been embezzled, stolen, or feloniously obtained

11. Obtaining money, goods, or valuable securities by false pretences

12 Crimes by bankrupts against bankruptcy law.

13 Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any Company, made criminal by law for the time being in force.

14. Rape

Carnal knowledge, or any attempt to have carnal knowledge of a girl under 15 years of age, so far as such acts are punishable by the law of the State upon which the demand is made

Indecent assault without violence upon children of either sex under 13 years of age.

15. Abduction

16. Child stealing

17 Kidnapping and false imprisonment

18 Burglary or house-breaking

19. Arson.

20. Robbery with violence (including intimidation)
21. Threats by letters or otherwise, with intent to extort.
22. Piracy by law of nations.
22. Sinking or destroying a vessel at sea, or attempting or conspiring to do so
24. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
25. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
26. Perjury and subornation of perjury.
27. Malicious injury to property, if the offence be indictable.
28. Assault occasioning actual bodily harm Malicious wounding or inflicting grievous bodily harm
29. Offences in connection with the Slave Trade punishable by the laws of both States

Provided that surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed, and in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted

In no case can the surrender be made unless the crime shall be punishable according to the laws in force in both countries with regard to extradition.

In no case, nor on any consideration whatever, shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalization

Article II.

In the dominions of His Britannic Majesty, other than the Colonies or foreign possessions of His Majesty, the manner of proceeding shall be as follows —

(1) In the case of a person accused—

The requisition for the surrender shall be made to His Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Minister or other Diplomatic Agent of His Majesty the King of the Belgians, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged

against the accused in Belgium, together with duly authenticated depositions or statements taken on oath or upon solemn affirmation before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed and any particulars which may serve to indentify him

The said Secretary of State shall transmit such documents to His Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly

When the fugitive shall have been apprehended, he shall be brought before a competent Magistrate. If the evidence to be there produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrenders, sending immediately to the Secretary of State a certificate of the committal and a report upon the case

After the expiration of a period from the committal of the prisoner, which shall never be less than 15 days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Government of His Majesty the King of the Belgians

(2) In the case of a person convicted—

Thy course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Minister or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced before the Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged

After the Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*, if he should so apply, his surrender must be deferred until after the decision of the Court

upon the return to the writ, and even then can only take place if the decision is adverse to the applicant.

Article III

In the dominions of His Majesty the King of the Belgians, other than the Colonies or foreign possessions of his said Majesty the manner of proceeding shall be as follows —

(1) In the case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of the Belgians by the Minister or other Diplomatic Agent of His Britannic Majesty, accompanied by a warrant of arrest or other equivalent judicial document issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Great Britain together with duly authenticated depositions or statements taken on oath or upon solemn affirmation setting forth the person claimed, identify him

The Minister for Foreign Affairs shall transmit the warrant of arrest, with the documents thereto annexed to the Minister of Justice, who shall forward the same to the proper judicial authority, in order that the warrant of arrest may be put in course of execution by the Chamber of the Council (*Chambre du Conseil*) of the Court of First Instance of the place of residence of the accused, or of the place where he may be found

The foreigner may claim to be provisionally set at liberty in any case in which a Belgian enjoys that right, and under the same conditions

The application shall be submitted to the Chamber of the Council (*Chambre du Conseil*)

The Government will take the opinion of the Chamber of Indictments or Investigation (*Chambre des Mises en Accusation*) of the Court of Appeal within whose jurisdiction the foreigner shall have been arrested.

The hearing of the case shall be public, unless the foreigner should demand that it should be with closed doors

The public authorities and the foreigner shall be heard
The latter may obtain the assistance of counsel

Within a fortnight from the receipt of the documents they shall be returned with a reasoned opinion, to the Minister of Justice who shall decide and may order that the accused be delivered to the person duly authorized on the part of the Government of His Britannic Majesty

(2) In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the conviction or sentence of condemnation issued in original, or in an authenticated copy, to be transmitted by the Minister or other Diplomatic Agent in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the Belgian laws, prove that the prisoner was convicted of the crime charged.

Article IV.

... hended under a
... of the Peace,
... on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction. Provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a competent Magistrate. He shall be discharged, as well in the United Kingdom, as in Belgium, if within fourteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of the requiring State in the manner directed by Articles II and III of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article V.

If within two months, counting from the date of arrest, sufficient evidence for the extradition shall not have been presented, the person arrested shall be set at liberty. He shall likewise be set at liberty if, within two months of the day on which he was placed at the disposal of the Diplomatic Agent he shall not have been sent off to the reclaiming country.

Article VI.

When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not, until he has been restored, or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

Article VII

No accused or convicted person shall be surrendered if the offence in respect of which his surrender is demanded shall be deemed by the party upon which it is made to be a political offence, or to be an act connected with (connexe a) such an offence, or if he prove to the satisfaction of the Magistrate, or of the Court before which he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character.

Article VIII

Warrants, depositions, or statements on oath issued or taken in the dominions of either of the two High Contracting Parties and copies thereof, and certificates of or judicial documents stating the fact of conviction shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate or officer of the country where they were issued or taken

Provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath or solemn affirmation of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State

Article IX.

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction, exemption from prosecution or punishment, has been acquired by lapse of time, according to the laws of the country where the accused shall have taken refuge.

Article X.

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date, unless any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

Article XI.

If the individual claimed should be under process, or condemned by the Courts of the country where he has taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall, nevertheless, take place, the injured party retaining his right to prosecute his claims before the competent authority

Article XII

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are, nevertheless, reserved

Article XIII.

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty

Article XIV.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties

The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or foreign possession of either party shall be made to the Governor or chief authority of such Colony or possession by the chief Consular Officer of the other in such Colony or possession, or, if the fugitive has escaped from a Colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such Colony or possession

Such requisitions may be disposed of, subject always, as nearly as may be, to the provision of this Treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possession for the surrender of Belgian criminals who may there take

refuge, on the basis, as nearly as may be, of the provisions of the present Treaty

Article XV

The present Treaty shall come into operation ten days after its publication, in conformity with the laws of the respective countries

From the day when the present Treaty shall come into force, the Treaty of Extradition between the two countries of the 20th May, 1876 the Declaration between the British and Belgian Governments, dated the 23rd July, 1877, extending the Treaty of the 20th May, 1876, to certain additional crimes, the further Declaration of the 21st April, 1887, amending Article I of the Treaty of the 20th May, 1876, and the Convention of the 27th August, 1896, further amending the Treaty of the 20th May, 1876, shall all cease to have effect, but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force

Either Party may at any time terminate the Treaty on giving to the other six months notice of its intention

Article XVI

The present Treaty shall be ratified, and the ratifications shall be exchanged at Brussels as soon as may be within six weeks from the date of signature

(BELGIUM II)

Article I

In the relations of each of the High Contracting Parties with the extra-European Colonies and foreign possessions of the other, the periods fixed by Articles IV, paragraph 1, and V of the Treaty of the 29th October 1901, shall be extended as follows—

1 A fugitive criminal arrested under the terms of Article IV shall be discharged in the dominion of His Britannic Majesty, if within the period of two months from the date of his arrest a request for his extradition shall not have been made by the Government of the requisitioning State.

The fugitive criminal may be discharged in the dominions of His Majesty the King of the Belgians if within the same period a request for his extradition has not been made by the Government of the requisitioning State, he shall be released if within seven days following the expiration of this period the warrant issued by the competent authority shall not have been communicated to the fugitive criminal,

2. The person arrested shall be set at liberty, if, within the three months, counting from the date of arrest, sufficient evidence in support of the demand for extradition shall not have been produced.

Article II.

The present Conventions shall be ratified and the ratifications shall be exchanged at London as soon as possible. It shall come into force ten days after its publication, in conformity with the laws of the High Contracting Parties, and it shall have the same force and duration as the Treaty of Extradition, to which it relates.

(BELGIUM III.)

Article I.

The following article is substituted for article 6 of the Extradition Treaty of the 29th October, 1901.

When a person shall have been extradited by one of the High Contracting Parties, that person, until he has returned to the country from which he had been extradited, or until he has had an opportunity of returning to it, shall not be detained or brought to justice in the State to which he has been handed over for any crime or on any other charge whatever prior to the extradition, except those in respect of which the extradition has been accorded.

Neither shall that person, until he has had an opportunity of returning to the country from which he has been extradited be handed over to a third State.

Article II.

The present Convention shall be ratified, and the ratification shall be exchanged at London, as soon as possible

It shall come into force ten days after its publication in the manner prescribed by law in the respective countries, and shall have the same force and duration as the Treaty to which it relates

DENMARK.

Date of Treaty, March 31st, 1873.

Date of Order in Council, June 26th, 1873.

Article I

It is agreed that Her Britannic Majesty and His Majesty the King of Denmark shall, on requisition made in their name by

their respective Diplomatic Agents, deliver up to each other reciprocally, any persons, except native born or naturalized subjects of the Party upon whom the requisition may be made, who being accused or convicted of any of the crimes hereinafter specified, committed within the territories of the requiring Party, shall be found within the territories of the other Party —

- 1 Murder, or attempt or conspiracy to murder
2. Manslaughter.
- 3 Counterfeiting, or altering money, or uttering counterfeit or altered money.
4. Forgery, or counterfeiting or altering, or uttering what is forged or counterfeited or altered
- 5 Embezzlement or larceny.
6. Obtaining money or goods by false pretences.
- 7 Crimes by bankrupts against bankruptcy law.
- 8 Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force
9. Rape
- 10 Abduction
- 11 Child stealing
- 12 Burglary or house breaking
- 13 Arson
14. Robbery with violence.
- 15 Threats by letter or otherwise with intent to extort.
- 16 Piracy by law of nations.
17. Sinking or destroying a vessel at sea, or attempting or conspiring to do so
- 18 Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm
- 19 Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

Provided that the surrender shall be made only when, in the case of a person accused, the commission of the crime shall be so established as that the laws of the country where the fugitive or person so accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed; and, in the case of a person alleged to have been convicted, on such evidence as, according to the laws of the country where he is found, would prove that he had been convicted,

duced by the Minister or other Diplomatic Agent of His Danish Majesty in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and dates of his conviction. The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*. If he should so apply his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

Article III

In the dominions of His Majesty the King of Denmark other than the Colonies or foreign possessions of His said Majesty, the manner of proceeding shall be as follows—

I In the case of a person accused—

The requisition for the surrender shall be made to the Minister for Foreign Affairs of His Majesty the King of Denmark by the Minister or other Diplomatic Agent of Her Britannic Majesty at Copenhagen accompanied by (1) a warrant for the arrest of the accused, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against him in Great Britain, (2) duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the acts on account of which the fugitive is demanded, and (3) a description of the person claimed, and any other particulars which may serve to identify him.

The Minister for Foreign Affairs of His Majesty the King of Denmark shall transmit such requisition for surrender to the Minister of Justice of His Majesty the King of Denmark, who, after having ascertained that the crime therein specified is one of those in the present Treaty, and satisfied himself that the evidence produced is such as, according to Danish law, would justify the commitment for trial of the individual demanded, if the crime had been committed in Denmark, shall take the necessary measures for causing the fugitive to be delivered to the person charged to receive him by the Government of Her Britannic Majesty.

II. In the case of a person convicted—

The course of proceedings shall be the same as in the preceding case of a person accused, except that the warrant to

transmitted by the Minister or other Diplomatic Agent of Her Britannic Majesty in support of his requisition, shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place, and date of his conviction. The evidence to be produced shall be such as would, according to the laws of Denmark, prove that the prisoner was convicted of the crime charged.

Article IV

A fugitive criminal may, however, be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed, or the prisoner convicted in that part of the dominions of the two Contracting Parties in which he exercises jurisdiction. Provided, however that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London, and that in the dominions of His Majesty the King of Denmark, the case shall be immediately submitted to the Minister of Justice of His Majesty the King of Denmark, and provided, also that the individual arrested shall in either country be discharged, if within fifteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country, in the manner directed by Articles II and III of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes specified in this Treaty, committed on the high seas, on board a vessel of either country, which may come into a port of the other.

Article V.

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal (or within two months after the decision of the Court, upon the return to a writ of *habeas corpus* in the United Kingdom), he shall be discharged from custody, unless sufficient cause be shown to the contrary.

Article VI

When any person shall have been surrendered by either of the High Contracting Parties to the other, such person shall not until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any offence committed in the other country prior to the surrender, other than the particular offence on account of which he was surrendered.

Article VII

No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the Government upon which it is made to be one of a political character or if in the United Kingdom he prove to the satisfaction of the Police Magistrate, or of the Court before which he is brought on *habeas corpus*, or to the Secretary of State, or in Denmark to the satisfaction of the Minister of Justice of His Majesty the King of Denmark that the requisition for his surrender has in fact been made with a view to try or to punish him for an offence of a political character

Article VIII

Warrants, depositions or statements on oath issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents received in evidence if purporting to be of an officer of the country where they were issued or taken and provided they are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice, or some other Minister of State

Article IX.

The surrender shall not take place if, since the commission of the acts charged, the accusation, or the conviction exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where the accused or convicted person shall have taken refuge

Article X

If the individual claimed should be under prosecution, or in custody, for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law

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Article XI

Every article found in the possession of the individual claimed at the time of his arrest shall be seized, in order to be delivered up with his person at the time when the surrender shall be

made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime. It shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed.

Article XII.

Each of the two Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention and the conveyance to its frontier, of the persons whom it may consent to surrender in pursuance of the present Treaty.

Article XIII.

The stipulations of the present Treaty shall be applicable to the Colonies or foreign possessions of the two High Contracting Parties, in the following manner —

The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either of the two Contracting Parties shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief Consular Officer of the other Party in such Colony or Possession, or, if the fugitive has escaped from a Colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or Chief Authority of such Colony or Possession.

Such requisitions may be disposed of, subject always, as nearly as may be to the provisions of this Treaty, by the respective Governors or Chief Authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government.

Her Britannic Majesty and His Majesty the King of Denmark shall, however, be at liberty to make special arrangements in their Colonies and Foreign Possessions for the surrender of criminals who may take refuge therein, on the basis, as nearly as may be, of the provisions of the present Treaty.

Article XIV.

The present Treaty shall come into operation ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties.

After the Treaty shall so have been brought into operation the convention concluded between the High Contracting Parties on the 15th April, 1867, shall be considered as cancelled, except as to any proceeding that may have already been taken or commenced in virtue thereof.

Either party may at any time terminate the Treaty on giving to the other six months notice of its intention

Article XV

The present Treaty shall be ratified and the ratifications shall be exchanged at Copenhagen as soon as may be within four weeks from the date of signature

FINLAND

Date of Treaty May 30th, 1924

Date of Order in Council, May 2nd 1925.

Article I

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present treaty those persons who being accused or convicted of any of the crimes or offences enumerated in Article 2 committed within the jurisdiction of the one Party shall be found within the territory of the other Party

Article II

Extradition shall be reciprocally granted for the following crimes or offences

- 1 Murder (including assassination parricide infanticide, poisoning), or attempt to murder
- 2 Manslaughter
- 3 Administering drugs or using instruments with intent to procure the miscarriage of women
- 4 Rape
- 5 Unlawful carnal knowledge or any attempt to have unlawfully carnal knowledge, of a girl under 15 years of age.
- 6 Kidnaping and false imprisonment
- 7 Child stealing, including abandoning exposing or unlawfully detaining
- 8 Abduction
- 9 Procuration
- 10 Bigamy
- 11 Maliciously wounding or inflicting grievous bodily harm
- 12 Assault occasioning actual bodily harm

13 Threats, by letter or otherwise, with intent to extort money or other things of value

14 Perjury, or subornation of perjury

15 Arson

16 Burglary or house breaking robbery with violence, larceny or embezzlement

17 Fraud by a bailee banker, agent, factor, trustee, director, member or public officer of any company, or fraudulent conversion if such crimes or offences according to the laws of the High Contracting Parties are extradition crimes or offences

18. Obtaining money, valuable security, or goods by false pretences, receiving any money, valuable security, or other property stolen or feloniously obtained to the laws of the High Contracting Parties or offences

19 Counterfeiting or altering money, or bringing into circulation counterfeited or altered money

20 Forgery or uttering what is forged

21 Crimes against bankruptcy law, which, according to the laws of the High Contracting Parties, are extradition crimes

22 Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway

23 Malicious injury to property, if such offence be indictable

24 Piracy and other crimes or offences committed at sea against persons or things which according to the laws of the High Contracting Parties, are extradition crimes or offences

25 Dealing in slaves in such manner as to constitute a crime or offence against the laws of both States

The extradition is also to be granted for participation in any of the aforesaid crimes or offences, provided such participation be punishable by the laws of both Contracting Parties

Extradition may also be granted at the discretion of the State applied to in respect of any other crime or offence for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made

Article III

In no case nor on any consideration whatever shall the High Contracting Parties be bound to surrender their own subjects, whether by birth or naturalization

Article IV

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the State applied to for the crime or offence for which his extradition is demanded

If the person claimed should be under examination or under punishment in the State applied to for any other crime or offence, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him

Article V

The extradition shall not take place if subsequently to the commission of the crime or offence or the institution of the penal prosecution or the conviction thereon exemption from prosecution or punishment has been acquired by lapse of time according to the laws of the State applying or applied to

Article VI

A fugitive criminal shall not be surrendered if the crime or offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has in fact, been made with a view to try or punish him for a crime or offence of a political character

Article VII

A person surrendered can in no case be kept in custody or be brought to trial in the State to which the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the State by which he has been surrendered.

This stipulation does not apply to crimes or offences committed after the extradition

Article VIII

The requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime or offence had been committed there.

If the requisition relates to a person already convicted it must be accompanied by the sentence of condemnation passed against the convicted person by the competent court of the State that makes the requisition for extradition provided that a sentence passed in *contumaciam* is not to be deemed a conviction but a person so sentenced may be dealt with as an accused person

Article IX

If the requisition for extradition be in accordance with the foregoing stipulations the competent authorities of the State applied to shall proceed to the arrest of the fugitive

Article X

A criminal fugitive may be apprehended under a warrant issued by any police magistrate justice of the peace, or other competent authority in either State on such information or complaint and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if crime or offence had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the magistrate, justice of the peace, or other competent authority exercises jurisdiction. He shall, in accordance with this article be discharged if within the term of thirty days a requisition for extradition shall not have been made by the diplomatic agent of the State claiming his extradition in accordance with the stipulations of this treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this treaty, committed on the high seas on board any vessel of either State which may come into a port of the other

Article XI

The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime or offence had been committed in the territory of the same State or to prove that the prisoner is the identical person convicted by the courts of the State which makes the requisition, and that the crime or offence of which he has been convicted is one in respect of which extradition could, at the time of such conviction have been granted by the State applied to, and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender

Article XII.

In the examinations which they have to make in accordance with the foregoing stipulation, the authorities of the State applied

to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentence issued therein, or copies thereof, and certificates of or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows —

1 A warrant, or copy thereof, must purport to be signed by a judge magistrate, or officer of the other State, or purport to be certified under the hand of a judge, magistrate or officer of the other State to be a true copy thereof as the case may require

2 Depositions or affirmations, or the copies thereof, must purport to be certified, under the hand of a judge magistrate, or officer of the other State to be the original depositions or affirmations, or to be true copies thereof as the case may require.

3 A certificate of or judicial document stating the fact of, a conviction must purport to be certified by a judge magistrate, or officer of the other State

In every case such warrant, deposition affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of the other State, or by any other mode of authentication for the time being permitted by the law of the State to which the application for extradition is made

Article XIII.

If the individual claimed by one of the High Contracting Parties in pursuance of the present treaty should be also claimed by one of several other Powers on account of other crimes or offences committed within their respective jurisdictions, the extradition shall be granted to the State whose claim is earliest in date unless such claim is waived

Article XIV.

If sufficient evidence for the extradition be not procured within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, the proper tribunal thereof, shall direct, the fugitive shall be set at liberty

Article XV.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension and any articles that may serve as a proof of the crime or offence

shall be given up when the extradition takes place, in so far as this may be permitted by the law of the State granting the extradition.

Article XVI

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present treaty.

Article XVII

The stipulations of the present treaty shall be applicable so far as the laws permit, to all His Britannic Majesty's dominions except to the self-governing Dominions hereinafter named, that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland—and India, provided always that the said stipulations shall be applicable to any of the above named Dominions or India in respect of which notice to that effect shall have been given on behalf of the government of such Dominion or India by His Britannic Majesty's Representative at Helsingfors, and provided also that it shall be competent for either of the Contracting Parties to terminate separately the application of this treaty to any of the above-named Dominions or India by a notice to that effect not exceeding one year and not less than six months.

Article XVIII.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of His Britannic Majesty's self-governing Dominions, Colonies, or Possessions to which the treaty applies, shall be made to the Governor-General, Governor or chief authority, of such self-governing Dominion, Colony, or Possession by the chief consular officer of Finland in such self governing Dominion, Colony, or Possession

Such requisition may be disposed of, subject always as nearly as may be, and so far as the law of such self-governing Dominion, Colony, or Possession will allow, to the provisions of this treaty by the said Governor-General Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to His Britannic Majesty's Government.

Requisitions for the surrender of a fugitive criminal emanating from any self-governing Dominion, Colony, or Possession of His Britannic Majesty shall be governed, as far as possible, by

the rules laid down in the preceding articles of the present treaty.

Article XIX

It is understood that the stipulations of the two preceding articles apply in the same manner as if they were Possessions of His Britannic Majesty, to the following British Protectorates, that is to say, the Bechuanaland Protectorate, Gambia Protectorate, Kenya Protectorate, Nigeria Protectorate, Northern Rhodesia, Northern Territories of the Gold Coast, Nyasaland, Sierra Leone Protectorate, Solomon Islands Protectorate, Somaliland Protectorate, Swaziland, Uganda Protectorate and Zanzibar.

It is also understood that if, after the signature of the present treaty, it is considered advisable to extend its provisions to any British Protectorates other than those mentioned above, or to any British-protected State, or to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, the stipulations of the two preceding articles shall be deemed to apply to such Protectorates or States or mandated territories from the date prescribed in the notes to be exchanged for the purpose of effecting such extension.

It is further understood that the provisions of the present

articles apply or shall hereafter apply.

Article XX.

The present treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

It shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

FRANCE.

1. { Date of Treaty, August 14th, 1876.
 { Order in Council, May 16th, 1878.
2. { Convention Amending Treaty of 1876, dated
 February 13th, 1896
 { Order in Council, dated February 22nd, 1896
3. Arrangement regarding Tunis, dated December 31st, 1889.

Article I.

The High Contracting Parties engage to deliver up to each other those persons who are being proceeded against or who have been convicted of a crime committed in the territory of the one Party, and who shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

Article II.¹

Native born or naturalized subjects of either country are excepted from extradition in the case, however, of a person who since the commission of the crime or offence of which he is accused, or for which he has been convicted, has become naturalized in the country whence the surrender is sought, such naturalization shall not prevent the pursuit, arrest, and extradition of such person, in conformity with the stipulations of the present Treaty

Article III

The crimes for which the extradition is to be granted are the following —

- 1 Counterfeiting or altering money, and uttering counterfeit or altered money
- 2 Forgery, counterfeiting or altering and uttering what is forged, counterfeited or altered.
- 3 Murder (including assassination, parricide, infanticide and poisoning) or attempt to murder
- 4 Manslaughter
- 5 Abortion
- 6 Rape
- 7 Indecent assault, acts of indecency even without violence upon the person of a girl under 12 years of age
- 8 Child stealing, including abandoning, exposing or unlawfully detaining
- 9 Abduction
- 10 Kidnapping and false imprisonment
11. Bigamy.
- 12 Wounding or inflicting grievous bodily harm

¹For the first sentence of this Article the Convention of 1903 substituted the following sentence namely — Each of the two High Contracting Parties shall be at liberty to refuse to the other the extradition of its own nationals

- 13 Assaulting a Magistrate, or peace or public officer
- 14 Threats by letter or otherwise with intent to extort
- 15 Perjury or subornation of perjury
- 16 Arson
- 17 Burglary or house breaking, robbery with violence
- 18 Fraud by a bailee, banker agent, factor trustee, or director, or member or public officer of any Company made criminal by any Act for the time being in force
- 19 Obtaining money valuable security goods by false pretences, including receiving any chattel money valuable security, or other property knowing the same to have been unlawfully obtained
- 20 Embezzlement or larceny, including receiving any chattel, money, valuable security, or other property knowing the same to have been embezzled or stolen
- 21 Crimes against Bankruptcy Law
- 22 Any malicious act done with intent to endanger persons in a railway train
- 23 Malicious injury to property, if the offence is indictable
- 24 Crimes committed at sea —
 - (a) Any act of depredation or violence by the crew of a British or French vessel, against another British or French vessel, or by the crew of a foreign vessel not provided with a regular commission against British or French vessels their crews or their cargoes
 - (b) The fact by any person being or not one of the crew of a vessel of giving her over to pirates
 - (c) The fact by any person being or not one of the crew of a vessel of taking possession of such vessel by fraud or violence
 - (d) Sinking or destroying a vessel at sea or attempting or conspiring to do so
 - (e) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master
- 25 Dealing in slaves in such manner as to constitute an offence against the laws of both countries

The extradition is also to take place for participation, either as principals or accessories, in any of the aforesaid crimes provided such participation be punishable by the laws of both the Contracting Parties

Article IV.

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty, but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted

Article V

No accused or convicted person shall be surrendered, if the offence in respect of which his surrender is demanded shall be deemed by the Party upon which it is made to be a political offence or to be an act connected with (*connexe a*) such an offence, or if he prove to the satisfaction of the police magistrate or of the Court before which he is brought on *habeas corpus* or of the Secretary of State, that the requisition for his surrender has, in fact, been made with a view to try or to punish him for an offence of a political character.

Article VI.

On the part of the French Government, the extradition shall take place in the following manner in France —

The Ambassador or other Diplomatic Agent of Her Britannic Majesty in France shall send to the Minister for Foreign Affairs, in support of each demand for extradition, an authenticated and duly legalised copy either of a certificate of conviction, or of a warrant of arrest against a person accused, clearly setting forth the nature of the crime or offence on account of which the fugitive is being proceeded against. The judicial document thus produced, shall be accompanied by a description of the person claimed, and by any other information which may serve to identify him

These documents shall be communicated by the Minister for Foreign Affairs to the Keeper of the Seals Minister of Justice, who after examining the claim for surrender, and the documents in support thereof, shall report thereon immediately to the President of the Republic, and, if there is reason for it, a Decree of the President will grant the extradition of the person claimed and will order him to be arrested and delivered to the British authorities

In consequence of this Decree, the Minister of the Interior shall give orders that search be made for the fugitive criminal, and in case of his arrest, that he be conducted to the French frontier, to be delivered to the person authorized by Her Britannic Majesty's Government to receive him

Should it so happen that the document furnished by the British Government, with the view of establishing the identity

of the fugitive criminal, and that the particulars collected by the agents of the French Police with the same view, be considered insufficient notice shall be immediately given to the Ambassador or other French Agent in London, to the effect that the French Government will not release the fugitive from its custody until such evidence in order to establish his identity, or to throw light on other difficulties in the examination

Article VII

In the dominions of Her Britannic Majesty, other than the Colonies or Foreign Possessions of Her Majesty, the manner of proceeding shall be as follows —

(A) In the case of a person accused — The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Ambassador or other Diplomatic Agent of the President of the French Republic, accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in France, together with duly authenticated depositions or statements taken on oath before such Judge or Magistrate clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him. The said Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive.

On the receipt of such order from the Secretary of State and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime has been committed in the United Kingdom, he shall issue his warrant accordingly.

When the fugitive shall have been apprehended, he shall be brought before the Police Magistrate who issued the warrant or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the President of the French Republic

(B) In the case of a person convicted --The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Ambassador or other Diplomatic Agent in support of his requisition shall clearly set forth the crime of which the person claimed has been convicted, and state the fact, place and date of his conviction. The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged

(C) Persons convicted by judgment in default or *arret de contumace*, shall be in the matter of extradition considered as persons accused, and as such be surrendered

(D) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender such person shall have the right to apply for a writ of *habeas corpus* if he should so apply his surrender must be deferred until after the decision of the Court upon the return to the writ and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

Article VIII

Warrants, dispositions or statements on oath, issued or taken in the dominions of either of two High Contracting Parties, and copies thereof and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate or officer of the country where they were issued or taken, provided such warrants, depositions, statements, copies, certificates and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice or some other Minister of State

Article IX

A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other

competent authority in either country, on such information or complaint and such evidence, or after such proceedings as would, in the opinion of the person issuing the warrant, justify the issue of a warrant, if the crime had been committed or the prisoner convicted in that part of the dominions of the two Contracting Parties in which the Magistrate exercises jurisdiction. Provided, however, that, in the United Kingdom the accused shall, in such case, be sent as speedily as possible before Police Magistrate in London. He shall be discharged, as well in the United Kingdom as in France, if within fourteen days a requisition shall not have been made for his surrender by the Diplomatic Agent of his country in the manner directed by Articles II and IV of this Treaty.

The same rule shall apply to the cases of persons accussed or convicted of any of the crimes specified in this Treaty committed on the High seas on board any vessal of either country which may come into a part of the other.

Article X

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

Article XI

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts, charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

Article XII.

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes committed upon their respective territories, his surrender shall be granted to that State whose demand is earliest in date, or any other arrangement should be made between the Governments which have claimed him, either on account of the gravity of the crimes committed, or for any other reasons.

Article XIII.

If the individual claimed should be under sentence of death or condemned for a crime or offence committed in the territory of one of the Contracting Parties, the Government of that Party shall have the right to execute the sentence.

he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall nevertheless take place

Article VII.

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the surrender shall be made. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime, and shall take place even when the surrender, after having been ordered, shall be prevented from taking place by reason of the escape or death of the individual claimed

The rights of third parties with regard to the said property or articles are nevertheless reserved

Article XV

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present Treaty

Article XVI

In the Colonies and Foreign Possession of the two High Contracting Parties the manner of proceeding shall be as follows —

The requisition for the surrender of a fugitive criminal, who has taken refuge in a Colony or Foreign Possession of either Party, shall be made to the Governor or chief authority of such Colony or Possession by the chief Consular Officer of the other in such Colony or Possession, or, if the fugitive has escaped from a Colony or Foreign Possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such Colony or Possession

Such requisitions may be disposed of, subject always as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

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Article XVII

The present Treaty shall be ratified and the ratifications shall be exchanged at Paris as soon as possible

It shall come into operation ten days after its publication, in conformity with the laws of the respective countries

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention

2 CONVENTION OF FEBRUARY 13TH, 1896

ARTICLE I—The text of article VII of the Extradition Treaty of the 14th August, 1876, is amended by the substitution of the words "a Magistrate" for the words "the Police Magistrate who issued the warrant, or some other Police Magistrate in London," in the first sentence of the third paragraph of section (A), and by the omission of the word "police" in the second sentence of the said paragraph, and in the sections (B) and (D)

ARTICLE II—The text of Article IX of the aforesaid Treaty is amended by the substitution of the words "a Magistrate" for the words "a Police Magistrate in London"

ARTICLE III—The present Convention shall be ratified, and the ratifications shall be exchanged at Paris as soon as possible

It shall come into force ten days after its publication in the manner prescribed by law in the respective countries, and shall have the same force and duration as the Treaty to which it relates

3 ARRANGEMENT REGARDING TUNIS, DATED DECEMBER 31ST, 1889

The provisions of the Anglo French Convention of the 14th August, 1876, are extended to Tunis, except that the period of fourteen days, stipulated by Article IX of the said Convention, is prolonged to two months

The present arrangement shall have the same duration as the Convention of Extradition to which it relates.

he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country on account of obligations contracted towards private individuals, his surrender shall nevertheless take place

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The rights of third parties with regard to the said property or articles are nevertheless reserved

Article XV

Each of the High Contracting Parties shall defray the expenses occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present Treaty

Article XVI.

In the Colonies and Foreign Possession of the two High Contracting Parties the manner of proceeding shall be as follows —

The requisition for the surrender of a fugitive criminal, who has taken refuge in a Colony or Foreign Possession of either Party, shall be made to the Governor or chief authority of such Colony or Possession by the chief Consular Officer of the other in such Colony or Possession, or, if the fugitive has escaped from a Colony or Foreign Possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such Colony or Possession

Such requisitions may be disposed of, subject always as nearly as may be, to the provisions of this Treaty, by the respective Governors or chief authorities who, however, shall be at liberty either to grant the surrender or to refer the matter to their Government.

The foregoing stipulations shall not in any way affect the arrangements established in the East Indian Possessions of the two countries by the IXth Article of the Treaty of the 7th March, 1815.

Article XVII

The present Treaty shall be ratified and the ratifications shall be exchanged at Paris as soon as possible.

It shall come into operation ten days after its publication, in conformity with the laws of the respective countries

Either Party may at any time terminate the Treaty on giving to the other six months' notice of its intention

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The provisions of the Anglo French Convention of the 14th August, 1876, are extended to Tunis, except that the period of fourteen days, stipulated by Article IX of the said Convention, is prolonged to two months

The present arrangement shall have the same duration as the Convention of Extradition to which it relates.

GERMANY

Date of Treaty, May 14th, 1872.

Date of Order in Council June 25th, 1872

Article I

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty

Article II

The crimes for which the extradition is to be granted are the following —

1 Murder or attempt to murder.

2 Manslaughter

3 Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money

4 Forgery or counterfeiting or altering or uttering what is forged or counterfeited or altered comprehending the crimes designated in the German Penal Code as counterfeiting or falsification of paper money, bank notes or other securities forgery or falsification of other public or private documents like wise the uttering or bringing into circulation, or wilfully using such counterfeited forged or falsified papers

5 Embezzlement or larceny

6 Obtaining money or goods by false pretences

7 Crimes by bankrupts against bankruptcy law comprehending the crimes designated in the German Penal Code as bankruptcy liable to prosecution

8 Fraud by a bailee, banker, agent, factor, trustee or director, or member or public officer of any company made criminal by any law for the time being in force

9 Rape

10 Abduction

11 Child stealing

12 Burglary or house breaking

13 Arson

14 Robbery with violence

15. Threats by letter or otherwise, with intent to extort

16. Sinking or destroying a vessel at sea, or attempting to do so.

17. Assaults on board a ship on the high seas, with intent to destroy life, or to do grievous bodily harm

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master

The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties

Article III.

No German shall be delivered up by any of the Governments of the Empire to the Government of the United Kingdom, and no subject of the United Kingdom shall be delivered up by the Government thereof to any German Government.

Article IV.

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of any of the Governments of the German Empire, has already been tried and discharged or punished, or still under trial, in one of the States of the German Empire, or in the United Kingdom, respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of any of the Governments of the German Empire should be under examination for any other crime in one of the States of the German Empire, or in the United Kingdom, respectively, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him

Article V

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from the prosecution or punishment has been acquired by lapse of time according to the laws of the State applied to

Article VI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

Article VII

A person surrendered can in no case be kept in prison, or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place

The stipulation does not apply to crimes committed after the extradition

Article VIII.

This requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties, respectively

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition and by such evidence as according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition

A requisition for extradition cannot be founded on sentences passed *in contumaciam*

Article IX

If the requisition for extradition be in accordance with the foregoing stipulations the competent authorities of the State applied to shall proceed to the arrest of the fugitive

The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case just as if the apprehension had taken place for a crime committed in the same country

Article X

The extradition shall not take place before the expiration of fifteen days from the apprehension and then only if the evidence be found sufficient according to the laws of the State applied to either to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition

Article XI

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State

applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State or copies thereof, and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State

Article XII.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

Article XIII

All articles seized, which were in the possession of the person to be surrendered at the competent authority of the has ordered the delivery thereof takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime

Article XIV

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance till placed on board ship, they reciprocally agree to bear such expenses themselves.

Article XV

The stipulation of the present Treaty shall be applicable to the Colonies and Foreign Possessions of Her Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any or such Colonies or foreign Possessions shall be made to the Governor or Chief Authority of such Colony or Possession by the Chief Consular Officer of the German Empire in such Colony or Possession

Such requisition may be disposed of, subject always as nearly as may be, to the provisions of this Treaty, by the said Governor or Chief Authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and Foreign Possessions for the surrender of German criminals, who may take refuge

within such Colonies and Foreign Possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or Foreign Possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty

Article XVI

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

GREECE

Date of Treaty, September 11-24th, 1910.

Date of Order in Council, February 13th, 1912

Article I

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party

Article II

Extradition shall be granted for the following crimes or offence when provided for by the laws of the requisitioning State and of the State applied to —

1. Murder (including parricide, infanticide, poisoning), or attempt or conspiracy to murder, manslaughter
- 2 Kidnapping and false imprisonment
- 3 Abandoning or exposing children below the age of 7 years
- 4 Abortion
- 5 Abduction of persons under age
- 6 Bigamy
7. Malicious wounding or inflicting grievous bodily harm with premeditation, when such acts cause death (without the intention of killing) or disease or incapacity for personal labour

lasting for more than three months, or serious mutilation, or the loss or disablement of a member or organ, or other permanent infirmity.

8 Threats by letter or otherwise with intent to extort,

9. Perjury.

10 Arson

11 Burglary, house breaking, larceny, embezzlement, fraudulent misappropriation of property, obtaining property by false pretences

12 Fraud and embezzlement by public officials, bribery of public officials.

13 Receiving any chattel, money, valuable security, or other property, knowing the same to have been embezzled, stolen, or feloniously obtained

14. Counterfeiting or altering money, or knowingly bringing into circulation counterfeited or altered money

15 Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.

16 Forgery by writing, or uttering what is forged.

17 Fraudulent bankruptcy

18 Malicious injury to any house or building calculated to cause danger to life or property.

19. Rape.

Participation in the aforesaid crimes is also included provided that such participation is punishable by the laws of the demanding State and of the State applied to

Article III.

No Greek subject shall be surrendered by the Government of His Majesty the King of the Hellenes to the Government of His Britannic Majesty, and no British subject shall be surrendered by his Government to the Government of His Majesty the King of the Hellenes.

Article IV.

Extradition shall not take place if the person claimed on the part of His Britannic Majesty's Government, or of the Government of His Majesty the King of the Hellenes, has already been tried, discharged, or punished, or is awaiting trial in the territory of the United Kingdom or in Greece, respectively, for the crime or offence for which his extradition is demanded.

If the person claimed on the part of the Government of His Majesty the King of the Hellenes, or of His Britannic Majesty's Government, should be awaiting trial or undergoing sentence for any other crime or offence in the territory of Greece or in the United Kingdom, respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of sentence

Article V.

Extradition shall not be granted if exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to

Neither shall it be granted in the case of persons convicted by default, or otherwise, unless the sentence inflicted be at least one year's imprisonment

Article VI

The person claimed shall not be surrendered if the crime in respect of which extradition is applied for be deemed by the party to whom application is made to be a political offence, or connected with such an offence, or if the person claimed proves that the application for extradition has in fact been made with a view to try or to punish him for any offence of this character.

Article VII

A person whose surrender has been granted shall in no case be detained or tried in the State to which the surrender has been made for any other crime, or on account of any other matters than those for which the extradition shall have taken place

This stipulation does not apply to crimes committed after the extradition

The person who has been claimed, and whose extradition shall have been granted, shall not be tried or punished for any political offence committed prior to his extradition, nor for any matter connected with such an offence nor for any crimes or offences not provided for in the present Treaty.

Article VIII

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent judicial authority setting forth clearly the nature of the crime or offence with which the person claimed is charged. The said warrant shall also be accompanied by such evidence as according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there

If the requisition relates to a person already convicted, it must be accompanied by a copy of the judgment passed on the convicted person by the competent Court of the State that makes the requisition for extradition

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person

In the event of any doubt arising as to whether the crime or offence, in respect of which the prosecution has been instituted, comes within the stipulations of the present Treaty, the Government applied to shall be at liberty to require all such further information as it may consider necessary or of assistance in order to form an opinion after which it shall decide what action shall be taken on the demand for extradition

The requisitioning Government in furnishing such further information to the Government applied to shall at the same time, place at the disposal of the latter all such documents as may be necessary or useful in enabling it to form an opinion

Article IX

In cases of urgency provisional arrest may be effected upon notice being given by post or telegraph through the diplomatic channel that one of the documents enumerated in Article 8 has been issued, provided, however that such notice shall always be given to the Ministry for Foreign Affairs of the State applied to

Provisional arrest shall be effected in the manner and in accordance with the rules laid down by the laws of the State applied to. It shall not be maintained if within a period of one month from the date on which it has been effected, the State applied to has not been furnished with one of the documents specified in Article 8 of the present Treaty

Article X

All papers and documents issued by the authorities of the Contracting States which may be produced in virtue of Articles 8 and 13 of the present Treaty must be accompanied by an authenticated translation in the French language

Article XI

The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial in case the crime has been committed in the territory of the same State or if, extradition is claimed in respect of an offence of which the fugitive has been already convicted, to prove that the prisoner is the person convicted, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to.

Article XII

Extradition shall be granted in accordance with the rules laid down by the law of the State applied to.

Article XIII.

Warrant, depositions, and affirmations, issued or taken in the dominions of one of the High Contracting Parties, and copies of such documents as well as certificates or judicial documents stating the fact of a conviction shall be admitted as valid evidence in the proceedings taken in the dominions of the other party, if they bear the signature or are accompanied by the certificate of a Judge, Magistrate, or officer of the State in which they have been issued or taken, provided that such warrants, depositions, affirmations copies, certificates, or judicial documents are authenticated, either by the oath of some witness, or by being sealed with the seal of the Minister of Justice, or some other Minister of State

Article XIV

If the accused or sentenced person be not a subject of one of the Contracting Parties, the Government to whom application for extradition is made shall be at liberty to take such action in respect of the application as it may think fit, and to surrender the person claimed to be tried in the State in which the crime or offence has been committed.

Nevertheless the Government of His Majesty the King of the Hellenes reserves to itself the option of surrendering the person claimed to the State to which he belongs, instead of surrendering him to the State in which the crime or offence has been committed.

Article XV.

If a fugitive criminal who has been arrested has not been surrendered and conveyed away within three months after his arrest, or within three months after the decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be set at liberty.

Article XVI.

When extradition is granted all articles connected with the crime or offence, or which may serve as proofs of the crime which are found in the possession of the person claimed at the time of his arrest, or which may be afterwards discovered, shall, if the competent authority of the State applied to so direct, be seized and restored to the requisitioning State.

Such restoration shall be carried out, even if extradition be not carried out owing to the escape or death of the person claimed.

The rights, however, which third persons, not involved in the prosecution, may have acquired over the said articles are reserved, and the latter shall, should the case arise, be restored to them, free of charge, at the termination of the proceedings

Article XVII.

All expenses arising out of an application for extradition, also the costs of the arrest, maintenance, and transport of the person whose extradition shall have been granted, as well as of the despatch and forwarding of the articles which, by the provisions of Article 16, are to be returned or restored, shall be borne by the requisitioning State and by the State applied to within the limits of their respective territories

The cost of transport or other expenses outside the territory of the State applied to shall be borne by the demanding State.

Article XVIII.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colonies or possession by the chief consular officer of Greece in such Colony or possession.

Such requisition may be disposed of subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority. He shall, however, be at liberty either to grant the surrender or to refer the matter to his Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Greece who may take refuge within such Colonies and foreign possessions on the basis of the provisions of the present Treaty

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of His Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

Article XIX

The present Treaty shall come into operation ten days after its publication in conformity with the laws of the respective countries.

Crimes committed prior to the coming into force of the Treaty shall not form the subject of an application for extradition except in cases in which the persons claimed shall have taken

refuge in the territory of the State applied to after the exchange of ratifications.

Each of the Contracting Parties shall be at liberty at any time to denounce the present Treaty upon giving six months' notice to the other Party of its intention to do so

ITALY.

Date of Treaty, February 5th, 1873

Amendment inserted *in loco*.

Date of Order in Council, March 24th, 1873

Article I

The Contracting Parties engage to deliver up to each other, when being accused or convicted of the crime following, committed within the territory of either of the said Parties, shall be found within the territory of the other, in the manner and under the conditions determined in the present Treaty.

Article II.

The crimes for which the extradition is agreed to are the following —

1. Murder, or attempt or conspiracy to murder, comprising the crimes designated by the Italian Penal Code as the association of criminals for the commission of such offences
2. Manslaughter, comprising the crimes designated by the Italian Penal Code as wounds and blows wilfully inflicted which cause death
3. Counterfeiting or altering money, and uttering or bringing into circulation counterfeit or altered money.
4. Forgery, counterfeiting or altering, or uttering of the thing or document that is forged or counterfeited or altered.
5. Larceny, or unlawful abstraction or appropriation
6. Obtaining money or goods by false pretences (cheating or fraud).
7. Fraudulent bankruptcy
8. Fraud, abstraction, or unlawful appropriation, by a bailee, banker, agent, factor, trustee, director, or member, or officer of any public or private company or house of commerce
9. Rape.
10. Abduction
11. Child stealing.

12 Burglary and house breaking, comprising the crimes designated by the Italian Penal Code as entry by night, or even by day, with fracture or escalade, or by means of false key or other instrument, into the dwelling of another person with intent to commit a crime

13 Arson

14 Robbery with violence.

15. Threats by letter or otherwise, with intent to extort money or anything else

16. Piracy, according to international law, when the pirate, a subject of neither of the High Contracting Parties, has committed depredations on the coasts, or on the high seas to the injury of citizens of the requiring party, or when being a citizen of the requiring party and having committed acts of piracy, to the injury of a third State, he may be within the territory of the other party, without being subjected to trial

17 Sinking or destroying, or attempting to sink or destroy, a vessel at sea

18. Assaults on board a ship on the high seas with intent to kill or to do grievous bodily harm

19 Revolt or conspiracy by two or more persons on board a ship on the high seas, against the authority of the master.

Accomplices before the fact in any of these crimes shall, moreover, also be delivered up, provided their complicity be punishable by the laws of both the Contracting Parties

Article III

The Italian Government shall not deliver up any Italian to the United Kingdom, and no subject of the United Kingdom shall be delivered up by it to the Italian Government

Article IV

In any case where an individual convicted or accused shall have obtained naturalization in either of the two Contracting States after the commission of the crime such naturalization shall not prevent the search for, arrest and delivery of the individual. The extradition may, however, be refused if five years have elapsed from the concession of naturalization, and the individual has been domiciled from the concession thereof in the State to which the application is made

Article V.

No accused or convicted person shall be given up if the offence for which he is claimed is political, or if he proves that the demand for his surrender has been made with the intention of trying and punishing him for a political offence.

Article X.

If the demand for extradition be made according to the foregoing stipulations, the competent authorities of the State to which the requisition is made shall proceed to arrest the fugitive

The prisoner shall be taken before the competent Magistrate, who shall examine him, and make the preliminary investigations of the affair, in the same manner as if the arrest had taken place for a crime committed in the same country.

Article XI

In the extraditions to be made in conformity with the preceding stipulations, the authorities of the State to which the demand is addressed shall admit, as entirely valid evidence, the documents and depositions taken on oath in the other State, or copies of them, and likewise the warrants and sentences issued there, provided that such documents are signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the oath of some witness or stamped with the official seal of the Department of Justice or some other Department of State

Article XII.

If within two months from the arrest of the accused sufficient evidence be not produced for his extradition, he shall be liberated

Article XIII.

The extradition shall not take place until the expiration of fifteen days after the arrest, and then only if the evidence has been found sufficient, according to the laws of the State to which the demand is addressed to justify the committal of the prisoner for trial in case the crime had been committed in the territory of that State, or to show that the prisoner is the identical person condemned by the Tribunals of the State which demands him.

Article XIV.

If the prisoner be not given up and taken away within two months from his apprehension, or from the decision of the Court upon the demand for a writ of *habeas corpus* in the United Kingdom, he shall be set at liberty, unless sufficient cause be shown for the delay.

Article XV.

If the individual claimed by one of the two Contracting Parties, in conformity with the present Treaty, should be also

claimed by another or by other States on account of crimes committed in their territories, his surrender shall, in preference, be granted according to priority of demand, unless an agreement be made between the Governments which make the requisition, either on account of the gravity of the crimes committed, or for any other reason

Article XVI

Every article found in the possession of the prisoner at the time of his arrest shall be seized, in order to be delivered up with him. Such delivery shall not be limited to the property or articles obtained by the robbery or fraudulent bankruptcy, but shall include everything that may serve as evidence of the crime, and it shall take place even when the extradition, after having been ordered, cannot take effect, either on account of the escape or the death of the delinquent

Article XVII.

The High Contracting Parties renounce all claim for repayment of the expenses incurred for the arrest and maintenance of the person to be given up, and for his conveyance on board a ship, such expenses shall be borne by themselves respectively.

Article XVIII

The stipulation of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties

The requisition for the surrender of a person accused of condemned, who has taken refuge in any such Colony or possession of either party, shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular officer of the other residing in such Colony or possession, or, if the accused or condemned person has escaped from a Colony or foreign possession of the party on whose behalf the requisition is made, the requisition shall be made by the Governor or chief authority of such Colony or possession

Such requisitions may be disposed of, in accordance, as far as possible, with the stipulations of this Treaty, by the respective Governors or chief authorities, who however shall be at liberty either to grant the extradition or to refer the matter to their own Government

Her Britannic Majesty shall nevertheless be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender to His Italian Majesty of criminals who may have taken refuge in such Colonies or possessions always in conformity, so far as possible, with the provisions of the present Treaty.

These provisions do not apply to
Government of

Article XIX

The High Contracting Parties declare that the present stipulations apply as well to persons accused or convicted whose crimes on account of which the extradition is demanded, may have been committed previously, as to those whose crimes may be committed subsequently to the date of this Treaty.

Article XX.

The present Treaty shall come into operation ten days after its publication according to the forms prescribed by the laws of High Contracting Parties.

Either party may at any time put an end to this Treaty, which, however, shall remain in force for six months after the notice for its termination

This Treaty shall be ratified, and the ratifications shall be exchanged at Rome within six weeks, or sooner, if possible.

NETHERLANDS

Date of Treaty, September 26th, 1898

Date of Order in Council, February 2nd, 1898

Article I

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

Article II.

The crimes or offences for which the extradition is to be granted are the following.—

1. Murder, including infanticide, or attempt, or conspiracy to murder, including such crimes when directed against the Sovereign, his heir, or any other person whomsoever, provided that the crime is not of a political character.

2. Manslaughter, including the manslaughter of a child.

3. Assault occasioning actual bodily harm.

- 4 Maliciously wounding or inflicting grievous bodily harm
- 5 Counterfeiting or altering money, or uttering counterfeit or altered money
- 6 Forgery, counterfeiting or altering, or uttering what is forged, counterfeited or altered.
- 7 Embezzlement, fraud by a bailee, banker, factor, trustee or director or member or public officer of any Company, made criminal by any law for the time being in force, or larceny.
- 8 Malicious injury to property if the offence be indictable.
- 9 Obtaining money, goods, or valuable securities by false pretences.
- 10 Crimes against bankruptcy law
- 11 Perjury, or subornation of perjury.
- 12 Rape
- 13 Carnal knowledge or any attempt to have carnal knowledge of a girl under 16 years of age
- 14 Indecent assault.
- 15 Administering drugs or using instruments with intent to procure the miscarriage of a woman
- 16 Abduction.
- 17 Child stealing.
- 18 Kidnapping of minors and their false imprisonment
- 19 Burglary or house-breaking
- 20 Arson
- 21 Robbery with violence
- 22 Any malicious act done with intent to endanger the safety of a railway train
- 23 Threats by letter or otherwise, with intent to extort.
- 24 Piracy by law of nations
- 25 Sinking or destroying a vessel at sea, or attempting to do so
- 26 Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm.
- 27 Revolt by two or more persons on board a ship on the high seas, against the authority of the master.
- 28 Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States

Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be an extradition crime by the laws of the State applied to.

In the foregoing cases extradition shall take place only when the crime, if committed within the jurisdiction of the country on which the claim for surrender is made, would constitute an extradition crime by the laws of that country.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force the grant can be made

Article III.

Either Government may, in its absolute discretion, refuse to surrender its own subjects to the other Government

Article IV

The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Netherland Government, has already been tried and discharged or punished, or is actually upon his trial within the territory of the other of the two High Contracting Parties, for the crime for which his extradition is demanded

If the person claimed on the part of the British Government or if the person claimed on the part of the Netherland Government, should be under examination or is undergoing sentence under a conviction, for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged whether by acquittal, or on expiration of his sentence, or otherwise

Article V.

The extradition shall not take place if, subsequently to the commission of the crime or the institution of the penal prosecution or the conviction thereon exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to

Article VI

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character

Article VII

A person surrendered may in no case be kept in prison or be brought to trial in the State to which the surrender has been

made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or had an opportunity during one month of returning, to the State by which he has been surrendered

This stipulation does not apply to crimes committed after the extradition

Article VIII

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition

A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person

Article IX

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive

Article X.

Pending the presentation of the demand for extradition through the Diplomatic channel, a fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings, as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction, provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Magistrate. He shall, in accordance with this Article, be discharged as well in the Netherlands as in the United Kingdom, if within the term of twenty days a requisition

for extradition shall not have been made by the Diplomatic Agent of the demanding country in accordance with the stipulations of this Treaty. The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article VI

If the fugitive have been arrested in the British dominions he shall forthwith be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

In the examination which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence depositions or statements on oath or the affirmations of witnesses taken in the Netherlands, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of a conviction provided the same are authenticated as follows —

1. A warrant must purport to be signed by a Judge, Magistrate, or Officer of the Netherlands.

2. Depositions, or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Officer of the Netherlands, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

3. A certificate of, or judicial document stating the fact of, a conviction must purport to be certified by a Judge, Magistrate, or Officer of the Netherlands.

4. In every case such warrant, deposition, affirmation copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State of the Netherlands, but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

Article XII.

If the fugitive have been arrested in the dominions of the Netherlands the officer of justice shall prefer a requisition within three days after the arrest, or, if the arrest have not taken place, or if it have taken place prior to the application for

extradition, then within three days after the receipt of authority for that purpose from the Netherland Government in order that the person claimed may be interrogated by the Court, and that it may express its opinion as to the grant or refusal of extradition

Within fourteen days after the interrogatory the Court shall forward its opinion and its decision, with the papers in the case, to the Minister of Justice

The extradition shall only be granted on the production either in original or in authenticated copy,—

1 Of a conviction, or,

2 (a) Of a warrant of arrest (which, by the law of the British dominions, is the only document which is granted when it is adjudged upon evidence taken on oath that the accused ought to be taken into custody), issued in the form prescribed by British law, and indicating the offence in question sufficiently to enable the Netherland Government to decide whether it constitutes, in contemplation of Netherland law, a case provided for by the present Treaty, and

(b) Of the evidence

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the Netherland dominions shall admit as valid evidence depositions or statements on oath, or the affirmations of witness, taken in the British dominions, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows—

1 A warrant must purport to be signed by a Judge Magistrate or Officer of the British dominions

2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or Officer of the British dominions, to be original depositions or affirmations or to be true copies thereof, as the case may require

3 A certificate of, or judicial document stating the fact of, a conviction, must purport to be certified by a Judge, Magistrate, or Officer of the British dominions.

4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of one of the Principal Secretaries of State, or some other minister of State of the British dominions, but any

other mode of authentication for the time being permitted by law in that part of the dominions of the Netherlands where the examination is taken may be substituted for the foregoing.

Article XIII.

The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, if the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could at the time of such conviction have been granted by the State applied to. The fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender

Article XIV

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed upon their respective territories his extradition shall be granted to that State whose demand is earliest in date

Article XV

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of this crime

Article XVI

The respective Governments mutually renounce all claim for the repayment of expenses incurred by them in the arrest and maintenance and transport of the person to be surrendered, and all other expenses which may be incurred within the limits of their respective territories until the person to be surrendered is placed on boardship together with the expenses of giving up and returning all seized articles and of sending and returning the papers containing proof of the crime, or other documents, and they reciprocally agree to bear all such expenses themselves.

The above stipulations, however, shall not apply to extradition to and from Canada, as regards which Colony all the expenses shall be borne by the demanding State.

The person to be extradited shall be sent to the port which the Diplomatic or Consular Agent of the demanding State shall indicate

Article XVII.

If in any criminal matter pending in any Court or Tribunal of one of the two countries it is thought desirable to take the evidence of any witness in the other, such evidence may be taken by the judicial authorities in accordance with the laws in force on this subject in the country where the witness may be, and any expenses incurred in taking such evidence shall be defrayed by the country in which it is taken.

Article XVIII

The stipulations of the present Treaty shall apply to the Colonies and foreign possessions of the two High Contracting Parties, but being based upon the legislation of the mother country, shall only be observed on either side as far as they may be compatible with the laws in force in those Colonies or possessions.

The demand for the extradition of an offender who has taken refuge in a Colony or foreign possession of either Contracting Party may also be made directly to the Governor or principal functionary of that Colony or possession of the other Contracting Party when the two Colonies or foreign possessions are situated in Asia, Australia (including New Zealand and Tasmania), the Pacific and Indian Oceans or South or East Africa

The same rule shall be followed if the two Colonies or foreign possessions are situated in America (including the West India Islands).

The said Governors or principal functionaries shall have the power either of granting the extradition or of referring the question to their Government.

In all other cases, the demand for extradition shall be made through the Diplomatic channel.

The period of provisional arrest provided for in Article X shall, for the purposes of this Article, be extended to sixty days

Article XIX

From the day when the present Treaty shall come into force the Treaty of extradition between the two countries of the 19th June, 1874, shall cease to have effect, but the present Treaty shall apply to all crimes within the Treaty, whether committed before or after the day when it comes into force

Article XX.

The present Treaty shall be ratified, and the ratifications shall be exchanged as soon as possible.

The Treaty shall come into force three months after the exchange of the ratifications. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

PORTUGAL

Date of Treaty, October 17th, 1892

Date of Order in Council, March 3rd, 1894

Article I.

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the the other Party, under the circumstances and conditions stated in the present Treaty.

Article II

The crimes or offences for which the extradition is to be granted are the following —

1. Murder (including assassination, infanticide, and poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Maliciously wounding or inflicting grievous bodily harm.
4. Assault occasioning actual bodily harm
5. Counterfeiting or altering money, either metallic or of any other kind representing the first named, or uttering counterfeit or altered money of any of those kinds
6. Knowingly making any instrument, tool, or engine adapted and intended for counterfeiting coin.
7. Forgery, counterfeiting or altering, uttering what is forged or counterfeited or altered
8. Embezzlement or larceny.
9. Malicious injury to property, if the offence be indictable.
10. Obtaining money, goods or valuable securities by false pretences,

11 Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained

12 Crimes against bankruptcy law

13 Fraud by a bailee, banker, agent, factor, trustee, or director or member, or public officer, of any company made criminal by any law for the time being in force

14 Perjury, or subornation of perjury

15 Rape.

16. Carnal knowledge or any attempt to have carnal knowledge of a girl under 16 years of age

17. Indecent assault.

18 Administering drugs or using instruments with intent to procure the miscarriage of a woman

19 Abduction.

20. Bigamy.

21 Child stealing.

22 Abandoning children, exposing or unlawfully detaining them

23 Kidnapping and false imprisonment

24 Burglary or house-breaking

25 Arson

26 Robbery with violence.

27. Any malicious act done with intent to endanger the safety of any person in a railway train

28 Threats by letter or otherwise, with intent to extort.

29 Piracy by law of nations.

30 Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

31 Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm

32 Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

33 Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is also to be granted for participation in any one of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties.

Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which, according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

The Portuguese Government will not deliver up any person either guilty or accused of any crime punishable with death.

Article III.

The Portuguese Government will not grant the extradition of any Portuguese subject, and Her Britannic Majesty's Government will not grant the extradition of any British subject, but in the case of a naturalised subject, this Article shall only be applicable if the naturalization was obtained previous to the commission of the crime giving rise to the application for extradition.

Article IV.

The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Portuguese Government, has already been tried and discharged or punished, or is still under trial within the territories of the two High Contracting Parties respectively, for the crime for which his extradition is demanded.

If the person claimed on the part of the British Government or if the person claimed on the part of the Portuguese Government, should be under examination, or is undergoing sentence under a conviction for any other crime within the territories of the two High Contracting Parties respectively, his extradition shall be deferred until after he has been discharged, whether by acquittal, or on expiration of his sentence, or otherwise.

Article V.

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

Article VI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

Article VII.

A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or had an opportunity of returning, to the State by which he has been surrendered. This stipulation does not apply to crimes committed after the extradition.

Article VIII.

The requisition for extradition shall be made through the Diplomatic Agents of High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as according to the laws of the place where the accused is found would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A sentence passed in *contumaciam* is not to be deemed a conviction, but circumstances may cause a person so sentenced in *contumaciam* to be dealt with as an accused person.

Article X

If the fugitive has been arrested in the British dominions, he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions.

If the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the dominions of Portugal, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows —

1. A warrant must purport to be signed by a Portuguese Judge, Magistrate, or Officer.

2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Portuguese Judge,

Magistrate, or officer to be the original dispositions or affirmations, or to be the true copies thereof, as the case may require

3 A certificate of a judicial document stating the fact of a conviction must purport to be certified by a Portuguese Judge, Magistrate, or officer

4 In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Portuguese Minister but any other mode of authentication for the time being permitted by the law in that part of the British dominions where the examination is taken may be substituted for the foregoing.

Article VI

to justify the extradition

The Portuguese authorities shall admit as valid evidence records drawn up by the British authorities of the depositions or witnesses or copies thereof, and records of conviction, or other judicial documents, or copies thereof Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty

Article VII

The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to either to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the Courts of the said State. In Her Britannic Majesty's not be surrendered until the date of his being committed to prison to await his surrender.

Article VIII.

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date.

Article XIV.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty

Article XV.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime

Article XVI.

All expenses connected with extradition shall be borne by the demanding State.

Article XVII

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possession of both of the High Contracting Parties, so far as the laws for the time being in force in such Colonies foreign possessions respectively will allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by the chief Consular authority of the other State in such Colony or possession

Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government

The High Contracting Parties shall, however, be at liberty to make special arrangements in their respective Colonies and foreign possessions for the surrender of criminals who may take refuge therein, on the basis, as nearly as may be, and so far as the law of such Colony, or foreign possession will allow, of the provisions of the present Treaty

Requisition for the surrender of a fugitive criminal emanating from any Colony or foreign possession of either of the High

Contracting Parties shall be governed by the rules laid down in the preceding Articles of the present Treaty.

Article XVIII.

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

The Treaty shall be ratified, and the ratifications shall be exchanged at Lisbon as soon as possible.

RUSSIA.

Date of Treaty, November 24th, 1886

Date of Order in Council, March 7th, 1887

Article I.

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

Article II.

The crimes or offences for which the extradition is to be granted are the following —

- 1 Murder or attempt or conspiracy to murder.
- 2 Manslaughter
3. Counterfeiting or altering money, or uttering counterfeit or altered money.
4. Forgery, counterfeiting or altering or uttering what is forged, or counterfeited, or altered
5. Embezzlement or larceny.
- 6 Malicious injury to property if the offence be indictable.
7. Obtaining money or goods by false pretences.
8. Crimes against bankruptcy law
9. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company, made criminal by any law for the time being in force
- 10 Perjury, or subornation of perjury.
11. Rape.

12 Carnal knowledge, or any attempt to have carnal knowledge of a girl under 16 years of age.

13 Indecent assaults.

Administering drugs or using instruments with intent to procure the miscarriage of a woman.

15 Abduction

16 Child stealing

17 Kidnapping and false imprisonment

18 Burglary or house breaking

19 Arson

20 Robbery with violence

21 Malicious wounding or inflicting grievous bodily harm.

22 Threats by letter, or otherwise, with intent to extort

23 Piracy by law of nations

24 Sinking or destroying a vessel at sea, or attempting or conspiring to do so

25 Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm

26 Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master

27 Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States

Extradition is also to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties

Extradition may also be granted, at the discretion of the State applied to, in respect of any other crime for which according to the laws of both the Contracting Parties for the time being in force, the grant can be made.

Article III

Either Government may, in its absolute discretion, refuse to deliver its own subjects to the other Government

Article IV.

The extradition shall not take place if the person claimed on the part of the British Government, or the person claimed on the part of the Russian Government has already been tried and discharged or punished, or is still under trial, within the Russian or British dominions respectively, for the crime for which his extradition is demanded

If the person claimed on the part of the British Government, or if the person claimed on the part of the Russian Government should be under examination or is undergoing sentence under a conviction, for any other crime within the Russian or British dominions respectively his extradition shall be deferred until after he has been discharged, whether by acquittal or on expiration of his sentence, or otherwise

Article V.

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the State applied to.

Article VI

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character

Article VII.

A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered

This stipulation does not apply to crimes committed after the extradition

Article VIII.

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the

competent authority of the State requiring the extradition and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition

A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person

Article IX

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive

Article X

If the fugitive has been arrested in the British dominions he shall forthwith be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the British dominions

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the British dominions shall admit as valid evidence the sworn depositions or the affirmations of witness taken in Russia, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of, or judicial documents stating the fact of, a conviction, provided the same are authenticated as follows —

1 A warrant must purport to be signed by a Judge, Magistrate, or officer of the Russian State

2 Depositions or affirmations or the copies thereof must purport to be certified under the hand of a Judge, Magistrate, or Officer of the Russian State, to be the original depositions or affirmations, or be true copies thereof, as the case may require

3 A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or Officer of the Russian State.

4 In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the

official seal of the Minister of Justice, or some other Minister of the Russian State, but any other mode of authentication for the time being permitted by the law of the British dominion, where the examination is taken, may be substituted for the foregoing.

Article XI.

If the fugitive has been arrested in Russia his surrender shall be granted if upon examination by a competent authority it appears that the documents furnished by the British Government furnish sufficient *prima facie* evidence to justify the extradition.

The Russian authorities shall admit as valid evidence records drawn up by the British authorities of the depositions of witnesses, or copies thereof, and records of conviction or other judicial documents or copies thereof. Provided that the said documents be signed or authenticated by an authority whose competence shall be certified by the seal of a Minister of State of Her Britannic Majesty.

Article XII

The extradition shall not take place unless the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the Said State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. And the fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender

Article XIII

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date

Article XIV.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or

the proper Tribunal thereof shall direct, the fugitive shall be set at liberty

Article XV

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition had ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime

Article XVI.

All expenses connected with extradition shall be borne by the demanding State

Article XVII

When, for the purposes of a criminal matter, not being of a political character, pending in any of its Courts or Tribunals, either Government shall desire to obtain the evidence of witnesses residing in the other State, a '*Commission Rogatoire*' to that end shall be sent through the diplomatic channel, and which shall be executed in conformity with the law of the State where the evidence is to be taken

The Government which sends the '*Commission Rogatoire*' will, however, take all necessary steps and pay all expenses for finding and procuring the attendance before the Magistrate of the witnesses named for examination in such Commission

Article XVIII

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions may be made to the Governor or chief authority of such Colony or possession by the Chief Consular Officer of the Russian Empire in such Colony or possession

Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the law of such Colony or foreign possession will allow, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender, or to refer the matter to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Russian criminals who may take refuge within such Colonies and foreign possessions, on the basis as nearly as may be, and so far as the law of such Colony or foreign possession will allow, of the provisions of the present Treaty

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty

Article XIX.

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so

The Treaty shall be ratified and the ratifications shall be exchanged at London as soon as possible

SIAM

Date of Treaty March 4th, 1911

Date of Order in Council, November 10th, 1911

Article I

The High Contracting Parties engage to deliver up to each other persons over whom they respectively exercise jurisdiction who, being accused or convicted of a crime or offence committed in the territory of the one Party shall be found within the territory of the other Party under the circumstances and conditions stated in the present Treaty

Article II

The crimes or offences for which the extradition is to be granted are the following —

1. Murder, or attempt, or conspiracy to murder
2. Manslaughter.

3. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.

4. Counterfeiting or altering money or uttering counterfeit or altered money.

5. Knowingly making any instrument, tool or engine adapted or intended for counterfeiting coin

6. Forgery, counterfeiting, or altering or uttering what is forged or counterfeited or altered
7. Embezzlement or larceny.
8. Malicious injury to property, by explosives or otherwise, if the offence be indictable
9. Obtaining money, goods, or valuable securities by false pretences
10. Receiving money, valuable security, or other property knowing the same to have been stolen, embezzled, or unlawfully obtained.
11. Crimes against bankruptcy law.
12. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force
13. Perjury, or subornation of perjury.
14. Rape
15. Carnal knowledge, or any attempt to have carnal knowledge, of a girl under the age of puberty, according to the laws of the respective countries.
16. Indecent assault.
17. Procuring miscarriage, administering drugs or using instruments with intent to procure the miscarriage of a woman
18. Abduction
19. Child stealing
20. Abandoning children, exposing or unlawfully detaining them.
21. Kidnapping and false imprisonment.
22. Burglary or house-breaking.
23. Arson.
24. Robbery with violence
25. Any malicious act done with intent to endanger the safety of any person in a railway train
26. Threats by letter or otherwise, with intent to extort
27. Piracy by law of nations
28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so,

29 Assaults on board a ship on the high seas, with intent to destroy life, or do grievous bodily harm

30 Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

31 Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States

Extradition is to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both Contracting Parties.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which according to the law of both of the Contracting Parties for the time being in force, the grant can be made

Article III

Either Government may, at its absolute discretion, refuse to deliver up its own subjects to the other Government.

Article IV

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Siam has already been tried and discharged or punished, or is still under trial in the territory of Siam or in the United Kingdom respectively for the crime for which his extradition is demanded

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of Siam should be under examination for any crime in the territory of Siam or in the United Kingdom respectively his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

Article V

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is deemed by the Party on whom the demand is made to be one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character.

Article VI

A person surrendered can in no case be detained or tried in the State to which the surrender has been made for any other crime or on account of any other matters than those for which the extradition shall have taken place until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition

Article VII.

The requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime has been committed there

If the requisition for extradition relates to a person already convicted, it must be accompanied by a copy of the judgment passed on the convicted person by the competent Court of the State that makes the requisition.

A sentence passed in *contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person

Article VIII

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive. The prisoner is then to be brought before a competent Magistrate, who is to examine him and conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country

Article IX

When either of the Contracting Parties considers the case urgent it may apply for the provisional arrest of the criminal and the safe keeping of any objects relating to the offence

Such request will be granted, provided the existence of a sentence or warrant of arrest is proved, and the nature of the offence of which the fugitive is accused is clearly stated

The warrant of arrest to which the Article refers should be issued by the competent authorities of the country applying for extradition. The accused shall on arrest be sent as speedily as possible before a competent Magistrate

Article X.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein,

and certificates of or judicial documents stating the fact of a conviction, provided the same are authenticated as follows —

1 A warrant must purport to be signed by a Judge, Magistrate or officer of the other State

2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.

3 A certificate of, or judicial documents stating the fact of, a conviction must purport to be certified by a Judge, Magistrate or officer of the other State

4 In every case each warrant, depositions, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

Article XI.

The extradition shall not take place unless the evidence be found sufficient according to the laws of the State applied to either to justify the committal of the prisoner for trial in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted, by the courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender

Article VII

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, his extradition shall be granted to that State whose demand is earliest in date.

Article XIII.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper Tribunal thereof shall direct, the fugitive shall be set at liberty.

Article XIV.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, shall,

if the competent authority of the State applied to for extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime

Article XV

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered and his conveyance till placed on board the ship, they reciprocally agree to bear such expenses themselves.

Article XVI

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions, respectively, will allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any such Colony or foreign possession may be made to the Governor or chief authority of such Colony or possession by any person authorised to act in such Colony or possession as a consular officer of Siam.

Such requisition may be deposed of, subject always, as nearly as may be, and so far as the laws of such Colonies or foreign possessions will allow, to the provisions of this Treaty, by the said Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to His Britannic Majesty's Government.

His Britannic Majesty shall however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Siam who may take refuge within such Colonies, and foreign possessions on the basis, as nearly as may be, and so far as the laws of such Colonies or foreign possessions will allow, of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possessions of His Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty.

Article XVII

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

The Treaty shall be ratified, and the ratifications shall be exchanged at London, as soon as possible.

SPAIN.

Date of Treaty, — June 4th, 1878; 2— February 19th, 1889.

Date of Order in Council, 1.—November 27th, 1878
2.—May 28th, 1886

Article I

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the conditions stipulated in the present Treaty, all persons and His Majesty the King of Spain engages to deliver up, under the like circumstances and conditions, all persons excepting his own subjects, who, having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of the crimes or offences enumerated in Article II, committed in the territory of the one party, and who shall be found within the territory of the other.

Article II

The extradition shall be reciprocally granted for the following crimes or offences —

1. Murder (including Assassination, parricide, infanticide, poisoning) or attempt to murder
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Aggravated or indecent assault. Carnal knowledge of a girl under the age of 10 years, carnal knowledge of a girl above the age of 10 years and under the age of 12 years, indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age
6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.
7. Abduction of minors
8. Bigamy
9. Wounding, or inflicting grievous bodily harm.
10. Assaulting a Magistrate, or peace or public officer.
11. Threats by letter or otherwise with intent to extort money or other things of value.
12. Perjury, or subornation of perjury.
13. Arson
14. Burglary or house-breaking, robbery with violence, larceny or embezzlement.

15 Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, made criminal by any law for the time being in force

16 Obtaining money, valuable security, or goods by false pretences, receiving any money, valuable security, or other property, knowing the same to have been unlawfully obtained.

17 (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money,

(b) Forgery, or counterfeiting or altering, or uttering what is forged, counterfeited or altered,

(c) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm

18 Crimes against Bankruptcy Law

19. Any malicious act done with intent to endanger person in a railway train

20 Malicious injury to property, if such offence be indictable

21 Crimes committed at sea—

(a) Piracy by the law of nations

(b) Sinking or destroying a vessel at sea, or attempting or conspiring to do so

(c) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.

(d) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm

22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties

Article III.

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty, but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted.

Article VI

No person shall be surrendered if the offence in respect of which his surrender is demanded is one of a political

character, or if he prove to the satisfaction of the competent authority of the State in which he is that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character

Article V

In the States of His Majesty the King of Spain excepting the provinces or possessions beyond sea the proceedings for demanding and obtaining the extradition shall be as follows —

The Diplomatic Representative of Great Britain shall send to the Minister for Foreign Affairs (*Ministro de Estado*) with the demand for extradition an authenticated and legalized copy of the sentence or of the warrant of arrest against the person accused clearly showing the crime or offence for which proceedings are taken against the fugitive. This judicial document shall be accompanied if possible, by a description of the person claimed and any other information or particulars that may serve to identify him.

These documents shall be communicated by the Minister for Foreign Affairs to the Minister of Grace and Justice by whose Department after examining the documents and finding that there is reason for the extradition a Royal Order will be issued granting it and directing the arrest of the person claimed and his delivery to the British authorities.

In virtue of the said Royal Order the Minister of the Interior (*Ministro de la Gobernacion*) will adopt the fitting measures for the arrest of the fugitive and when this has taken place the person claimed shall be placed at the disposal of the Diplomatic Representative who has demanded his extradition, and he shall be taken to the part of the frontier or to the seaport where the Agent appointed for the purpose by Her Britannic Majesty's Government is ready to take charge of him.

In case the documents furnished by the said Government for the identification of the person claimed or the information obtained by the Spanish authorities for the same purpose should be considered insufficient, immediate notice thereof shall be given to the Diplomatic Representative of Great Britain and the person under arrest shall be detained until the British Government shall have furnished fresh evidence to prove his identity or to clear up any other difficulty relative to the examination and decision of the affair.

Article VI

In the dominions of Her Britannic Majesty other than the Colonies or Foreign Possessions of Her Majesty the manner of

proceeding, in order to demand and obtain extradition, shall be as follows --

(a) In the case of a person accused—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic Representative of His Majesty the King of Spain. The said demand shall be accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorized to take cognizance of the acts charged against the accused in Spain, and duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him

The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly

When the person claimed shall have been apprehended, he shall be brought before the Magistrate who issued the warrant, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorized to receive him on the part of the Spanish Government.

(b) In the case of a person convicted—The course of proceeding shall be the same as above indicated, except that the warrant to be transmitted by the Diplomatic Representative of Spain in support of his requisition shall clearly set forth the crime or offence of which the person claimed has been convicted and state the place and date of his conviction.

The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged

(c) Persons convicted by judgment in default or *arret de contumace*, shall be, the matter of extradition, considered as persons accused, and, as such, be surrendered.

(d) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*, if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without the order of a Secretary of State of his surrender, or commit him to prison to await such order

Article VII

Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge Magistrate, or officer of the country where they were issued or taken, provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State

Article VIII

A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace or other competent authority exercises jurisdiction provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall in accordance with this Article be discharged, as well in Spain as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country, in accordance with the stipulations of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article IX

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the adverse decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody unless sufficient cause shown to the contrary.

Article X

In the Provinces beyond sea, Colonies and other Possession beyond sea of the two High Contracting Parties, the manner of proceeding shall be as follows —

The requisition for extradition of the fugitive criminal who has taken refuge in an over sea Province, Colony, or Possession of either of the two Contracting Parties, shall be made to the Governor or chief authority of such Province, Colony, or Possession by the Chief Consular Officer of the other State in such Province, Colony or Possession, or, if the fugitive has escaped from an over-sea Province, Colony, or Possession, of the State on whose behalf the extradition is demanded, by the Governor or chief authority of such Province, Colony, or Possession.

In these cases the provisions of this Treaty shall be observed as far as possible by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the extradition or to refer the decision of the matter to the Governments of their respective countries.

Article XI.

In cases where it may be necessary, the Spanish Government shall be	
of the C	Officers
by the	Courts
" . . .	

The respective Governments will give assistance to the Diplomatic Representatives who claim their intervention for the custody and security of the persons subject to extradition

Article XII

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

Article XIII.

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date, unless any other arrangement should exist between the different Governments to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

Article XIV

If the individual claimed should be under prosecution, or have been condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, the extradition shall nevertheless take place.

Article XV.

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the extradition takes place. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime or offence, and shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are nevertheless reserved.

Article XVI.

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance as far as the frontier, they reciprocally agree to bear such expenses themselves.

Article XVII.

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article IX

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the adverse decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody unless sufficient cause shown to the contrary.

Article X

In the Provinces beyond sea, Colonies and other Possession beyond sea of the two High Contracting Parties, the manner of proceeding shall be as follows —

The requisition for extradition of the fugitive criminal who has taken refuge in an over sea Province, Colony, or Possession of either of the two Contracting Parties, shall be made to the Governor or chief authority of such Province, Colony, or Possession by the Chief Consular Officer of the other State in such Province, Colony or Possession, or, if the fugitive has escaped from an over sea Province, Colony, or Possession, of the State on whose behalf the extradition is demanded, by the Governor or chief authority of such Province, Colony, or Possession.

In these cases the provisions of this Treaty shall be observed as far as possible by the respective Governors or chief authorities, who however, shall be at liberty either to grant the extradition or to refer the decision of the matter to the Governments of their respective countries.

Article XI.

In cases where it may be necessary, the Spanish Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Spanish Courts by the Public Prosecutor (*Ministerio Fiscal*)

The respective Governments will give assistance to the Diplomatic Representatives who claim their intervention for the custody and security of the persons subject to extradition.

Article XII

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

Article XIII.

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date, unless any other arrangement should exist between the different Governments to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

Article XIV

If the individual claimed should be under prosecution, or have been condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course of law.

In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, the extradition shall nevertheless take place.

Article XV.

Every article found in the possession of the individual claimed at the time of his arrest shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the extradition takes place. Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to everything that may serve as proof of the crime or offence, and shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are nevertheless reserved.

Article XVI.

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance as far as the frontier, they reciprocally agree to bear such expenses themselves.

Article XVII.

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article IX.

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the adverse decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody unless sufficient cause shown to the contrary.

Article X.

In the Provinces beyond sea, Colonies and other Possession beyond sea of the two High Contracting Parties, the manner of proceeding shall be as follows —

The requisition for extradition of the fugitive criminal who has taken refuge in an over-sea Province, Colony, or Possession of either of the two Contracting Parties, shall be made to the Governor or chief authority of such Province, Colony, or Possession by the Chief Consular Officer of the other State in such Province, Colony or Possession, or, if the fugitive has escaped from an over-sea Province, Colony, or Possession, of the State on whose behalf the extradition is demanded, by the Governor or chief authority of such Province, Colony, or Possession.

In these cases the provisions of this Treaty shall be observed as far as possible by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the extradition or to refer the decision of the matter to the Governments of their respective countries.

Article XI.

In cases where it may be necessary, the Spanish Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Spanish Courts by the Public Prosecutor (*Ministerio Fiscal*).

The respective Governments will give assistance to the Diplomatic Representatives who claim their intervention for the custody and security of the persons subject to extradition.

Article XII

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

Article II.

The crimes for which the extradition is to be granted are the following —

1 Murder (child murder and poisoning included) or attempt to murder.

2. Manslaughter

3 Counterfeiting or altering money, uttering or bringing into circulation knowingly counterfeit or altered money.

4 Forgery or counterfeiting or altering or uttering what is forged, or counterfeited, or altered, comprehending the crimes designated in the Swedish and Norwegian penal codes as counterfeiting or falsification of paper money, bank notes or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation or wilfully using such counterfeited, forged, or falsified papers

5. Embezzlement or larceny.

6. Obtaining money or goods by false pretences, except as regards Norway, cases in which the crime is not accompanied by aggravating circumstances according to the law of that country

7. Crimes by bankrupts against bankruptcy law

8 Fraud by a broker, banker agent, factor, trustee, or director or member or public officer of any company made criminal by any law for the time being in force

9. Rape.

10. Abduction.

11 Child stealing

12. Burglary or house breaking

13 Arson

14 Robbery with violence

15. Threats by letter or otherwise with intent to extort, except as regards Norway, cases in which this crime is not punishable by the laws of that country

16 Sinking or destroying a vessel at sea, or attempting to do so

17. Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

18. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master, except, as regards Norway, conspiracy to revolt

The extradition is also to take place for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both the Contracting Parties

Article III.

gian Government

be delivered up to
and no subject of the
the Swedish or Norwe

Article IV

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the country where he has taken refuge for the crime for which his extradition is demanded.

If the person claimed should be under examination for any other crime in the country where he has taken refuge, his extradition shall be deferred until the conclusion of the trial, and the full execution of any punishment awarded to him.

Article V.

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the country where the criminal has taken refuge

Article VI

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded, is one of a political character, or if he prove that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character

Article VII.

A person surrendered by either of the High Contracting Parties to the other cannot, until he has been restored or had an opportunity of returning to the country from whence he was surrendered, be triable or tried for any crime committed in the other country other than that on account of which the extradition shall have taken place.

This stipulation does not apply to crimes committed after the extradition

Article VIII

The requisitions for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such

evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition

The requisition ought, as far as possible, to be accompanied by a description of the person accused or convicted, in order to identify him.

A requisition for extradition cannot be founded on sentences passed in *contumaciam*

Article IX.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

The extradition shall not take place before the expiration of fifteen days from the apprehension, and then only if the evidence be found sufficient, according to the laws of the State applied to either to justify the committal of the prisoner for trial, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition.

Article X.

In the examinations which they have to make, in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof and likewise the warrants and sentences issued therein, provided such documents are signed or certified by a Judge, Magistrate, or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

Article XI.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, he shall be set at liberty.

Article XII

All articles seized, which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime

Article XIII.

Each of the High Contracting Parties shall defray and bear expenses incurred by it in the arrest, maintenance and conveyance of the individual to be surrendered till placed on board a ship, as well as in keeping and conveying the articles which are to be delivered up in conformity with the stipulations of the preceding Article

The individual to be surrendered shall be conveyed to the port specified by the applying Government at whose expense he shall be taken on board the ship to convey him away.

If it be necessary to convey the individual claimed through the territories of another State, the expenses incurred thereby shall be defrayed by the applying State

Article XIV.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of the two High Contracting Parties

The requisition for the surrender of a fugitive criminal who has taken refuge in a Colony or Foreign Possession of either Party, shall be made to the Governor or Chief authority of such Colony or Possession by the Chief Consular Officer of the other in such Colony or Possession, or, if the fugitive has escaped from a Colony or Foreign Possession of the Party on whose behalf the requisition is made, by the Governor or Chief Authority of such Colony or Possession

Such requisitions may be disposed of, subject always as nearly as may be, to the provisions of this Treaty by the respective Governors or Chief Authorities, who, however, shall be at liberty either to grant the surrender, or to refer the matter to their Government

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and Foreign Possessions for the surrender of Swedish and Norwegian criminals who may there take refuge, on the basis, as nearly as may be, of the provisions of the present Treaty.

Article XV

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties, but shall remain in force for six months after notice has been given for its termination.

Article XVI.

The present Treaty shall be ratified, and the ratifications shall be exchanged at Stockholm, as soon as may be possible.

2 SWEDEN (ADDITIONAL).

The British and Swedish Governments, who agree that the
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 of
 26th June, 1873, between the
 and Ireland and the Kingdoms
 mutual surrender of fugitive
 criminals shall remain in force between the United Kingdom of
 Great Britain and Ireland and the Kingdom of Sweden in so far
 as its provisions apply to the Kingdom of Sweden alone and
 who deem it desirable to make certain additions to the said
 Treaty, have authorized the Undersigned to declare that the
 following additions should be made to the offences set out in
 Articles II of the said Treaty for which, under the circumstances
 and conditions stated in the said Treaty, extradition is to be
 granted —

19 Perjury and subornation of perjury

20 Receiving any money valuable security, or other property, knowing the same to have been stolen or embezzled

21. Malicious wounding or inflicting grievous bodily harm

22. Unlawful carnal knowledge of a girl under the age of 15 years

23 Bigamy

24. Indecent assault.

25. Administering drugs or using instruments apt to procure the miscarriage of women, with intent to procure such miscarriage.

26 Any malicious act done with intent to endanger the safety of any person travelling or being upon a railway.

27 Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of the coin of the realm.

28 Malicious injury to property, if such offence be indictable.

3 NORWAY (SUPPLEMENTAL).

The British and Norwegian Governments, who agree that between the King-fugitive criminals shall remain in force between the United Kingdom of Great Britain and Ireland and the Kingdom of Norway in so far as its provisions apply to the Kingdom of Norway alone, and who deem it desirable to make certain additions to the said Treaty, have authorized the Undersigned to declare that the following additions should be made to the offences set out in Article II of the said Treaty for which under the circumstances and conditions stated in the said Treaty, extradition is to be granted :—

19. Perjury and subornation of perjury.

20. Receiving any money, valuable security, or other property, knowing the same to have been stolen or embezzled.

21. Maliciously wounding or inflicting grievous bodily harm.

22. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge of a girl under the age of sixteen years.

Any offence which by the laws of both countries, is for the time being an extradition offence.

SWITZERLAND.

1. Date of Treaty, November 26th, 1880.

Date of Order in Council, May 18th 1881.

2. Supplementary Convention, dated June 29th, 1904

Date of Order in Council, May 29th, 1905.

Article I.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances of the said Treaty, persons excepting Swiss citizens, who having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties of the crimes or offences enumerated in Article II, committed in the territory of the one party, shall be found within the territory of the other.

In the event of the Federal Council being unable, by reason of his Swiss nationality, to grant the extradition of an individual, who after having committed in the United Kingdom one of the crimes or offences enumerated in Article II, should have taken refuge in Switzerland the Federal Council engages to give legal effect to and prosecute the charge against him according to the laws of the Canton of his origin, and the Government of the United Kingdom engages to communicate to the Federal Council all documents depositions and proofs relating to the case, and to cause the commissions of examination directed by the Swiss Judge and transmitted through the proper Diplomatic channel to be executed gratuitously

Article II

The crimes for which the extradition is to be granted are the following —

- 1 Murder (including infanticide) and attempt to murder
- 2 Manslaughter
- 3 Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money
- 4 Forgery or counterfeiting or altering or uttering what is forged or counterfeited or altered, comprehending the crimes designated in the Penal Codes of both States, as counterfeiting or falsification of paper money bank notes or other securities, forgery or falsification of other public or private documents, likewise the uttering or bringing into circulation or wilfully using such counterfeited, forged or falsified papers
- 5 Embezzlement or larceny
- 6 Obtaining money or goods by false pretences
- 7 Crimes against bankruptcy law
- 8 Fraud committed by a bailee, banker agent factor, trustee or director or member or public officer of any Company made criminal by any law for the time being in force
- 9 Rape
- 10 Abduction of minors
- 11 Child stealing or kidnapping
- 12 Burglary, or house-breaking with criminal intent
- 13 Arson
- 14 Robbery with violence
- 15 Threats by letter or otherwise with intent to extort.
- 16 Perjury or subornation of perjury.

17. Malicious injury to property, if the offence be indictable

The extradition is also to take place for participation in any of the aforesaid crimes, as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties

Article III

A fugitive criminal may be apprehended in either country under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercises jurisdiction, provided, however, that, in the United Kingdom, the accused shall, in such case be sent as speedily as possible before a Police Magistrate in London

Requisitions for provisional arrest may be addressed by post or by telegraph, provided they purport to be sent by some judicial or other competent authority. Such requisition must contain a description in general terms of the crime or offence, and a statement that a warrant has been granted for the arrest of the criminal, and that his extradition will be demanded

He shall in accordance with this Article be discharged, as well in the United Kingdom as in Switzerland, if within the term of thirty days a requisition for extradition shall not have been made by Diplomatic Agent of the country claiming his surrender in accordance with the stipulations of this Treaty

Article IV.

The requisition for extradition must always be made by the way of diplomacy, and to wit, in Switzerland by the British Minister to the President of the Confederation, and in the United Kingdom to the Secretary of State for Foreign Affairs by the Swiss Consul General in London, who, for the purposes of this Treaty, is hereby recognised by Her Majesty as a Diplomatic Representative of Switzerland.

Article V.

In the dominions of Her Britannic Majesty, other than the Colonies or foreign possessions of Her Majesty, the manner of proceeding shall be as follows.—

(a) In the case of a person accused—

The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic Representative of the Swiss Confederation. The said demand shall be accompanied by a warrant of arrest, or other equivalent judicial document, issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Switzerland, and duly authenticated depositions or statements taken on oath, or solemnly declared to be true, before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

warrant of the Secretary of State for his surrender, sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be sent to such seaport town as shall, in each special case, be selected for his delivery to the Swiss Government.

(b) In the case of a person convicted—

The course of proceeding shall be the same as in the case of a person accused, except that the warrant to be transmitted by the Diplomatic Representative of Switzerland in support of his

requisition shall clearly set forth the crime or offence of which the person claimed has been convicted, and state the place and date of his conviction

The evidence to be produced shall consist of the penal sentence passed against the convicted person by the competent Court of the State claiming his extradition

(c) *Persons convicted by judgment in default or *acret de contumace** shall be, in the matter of extradition, considered as persons accused, and may as such be surrendered

(d) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*, if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorized to receive him, without waiting for the order of a Secretary of State for his surrender, or commit him to prison to await such order

Article VI.

In Switzerland the manner of proceeding shall be as follows —

The requisition for the extradition of an accused person must be accompanied by an authentic copy of the warrant of

If the requisition relates to a person already convicted, it must be accompanied by an authentic copy of the sentence or conviction, setting forth the crime or offence of which he has been convicted.

The requisition must also be accompanied by a description of the person claimed and, if be it possible, by other information and particulars which may serve to identify him

After having examined these documents, the Swiss Federal Council shall communicate them to the Cantonal Government in whose territory the person charged is found, in order that he may be examined by a judicial or police officer on the subject of their contents

The Cantonal Government will transmit the *proces verbal* of the examination, together with all the documents, accompanied, if there be one, by a more detailed report to the Federal Council, who, after having examined them, and there be no opposition on either side, will grant the extradition, and will communicate its decision both to the British Legation and to the Cantonal Government in question, to the latter in order that it may send the person to be surrendered to such place on the frontier, and deliver him to such foreign police authority as the British Legation may name in each special case

Should the documents furnished with a view of proving the facts or of establishing the identity of the accused, or the particulars collected by the Swiss authorities, appear insufficient, notice shall be immediately given to the Diplomatic Representative of Great Britain, in order that he may furnish further evidence. If such further evidence be not furnished within fifteen days, the person arrested shall be set at liberty.

In the event of the application of this Treaty being contested, the Swiss Federal Council will transmit the documents (*dossier*) to the Swiss Federal Tribunal, whose duty it is to decide definitely the question whether extradition should be granted or refused

The Federal Council will communicate the judgment of the Federal Tribunal to the British Legation. If this judgment grants the extradition, the Federal Council will order its execution, as in the case when the Federal Council itself grants the extradition. If, on the other hand, the Federal Tribunal refuses the extradition, the Federal Council will immediately order the person accused to be set at liberty.

Article VII.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the depositions or statements of witnesses, either sworn or solemnly declared to be true, taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, or copies thereof, provided such documents purport to be signed or certified by a Judge, Magistrate, or officer of such State, and are authenticated by the official seal of a British Secretary of State, or of the Chancellor of the Swiss Confederation, being affixed thereto.

The personal attendance of witnesses can be required only to establish the identity of the person who is being proceeded against with that of the person arrested.

Article VIII.

If proof sufficient to warrant the extradition be not furnished within two months from the day of the apprehension, the person arrested shall be discharged from custody

Article IX

In cases where it may be necessary, the Swiss Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Swiss Courts by the competent Swiss authorities

The respective Governments will give the necessary assistance within their territories to the Representatives of the other State who claim their intervention for the custody and security of the persons subject to extradition.

No claim for the repayment of expenses for the assistance mentioned in this Article shall be made by either of the Contracting Parties

Article X

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty, but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition other than the crime for which his surrender has been granted

Article XI.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try and punish him for an offence of a political character.

Article XII.

The extradition shall not take place if, subsequently to the commission of the crime, or the institution of the penal prosecution, or the conviction thereon, exemption from prosecution or punishment has been acquired according to the laws of the State applied to.

Article XIII.

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Swiss Government, has already been tried and discharged or punished, or is still under trial, in -

one of the Swiss Cantons or in the United Kingdom respectively, for the crime for which his extradition is demanded.

Article XIV.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Swiss Government, should be under examination or have been condemned for any other crime in one of the Swiss Cantons or in the United Kingdom, respectively, his extradition may be deferred until he shall have been set at liberty in due course of law

In case such individual should be proceeded against in the country in which he has taken refuge, on account of obligations contracted towards private individuals, his extradition shall, nevertheless, take place, the injured party retaining his right to prosecute his claims before the competent authority.

Article XV

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date

Article XVI.

All articles seized, which were in the possession of the person to be surrendered at competent authority has ordered the delivery takes place, and the stolen articles, but to everything that may serve as a proof to the crime

This delivery shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed, unless the claims of third parties with regard to the above-mentioned articles render such delivery inexpedient.

Article XVII

The Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered, and his conveyance to the frontiers of the State to which the requisition is made, they reciprocally agree to bear such expenses themselves

Article XVIII

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions, shall be made to the Governor or to the supreme authority of such Colony or possession through the Swiss Consul residing there or, in case there should be no Swiss Consul, through the recognized Consular Agent of another State charged with the Swiss interests in the Colony or possession in question.

¹ "Nevertheless so far as regards the relations of Switzerland with these Colonies and foreign possessions, the period of time fixed by Article III, paragraph 3, within which the requisition for extradition is to be made through the diplomatic channel shall be six weeks and that provided by Article VIII for the production of proof sufficient to warrant extradition shall be three calendar months'

The Governor or supreme authority above-mentioned shall decide with regard to such requisition as nearly as possible in accordance with the provisions of the present Treaty. He will, however, be at liberty either to consent to the extradition or report the case to his Government

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of such individuals as shall have committed in Switzerland any of the crimes hereinbefore mentioned, who may take refuge within such Colonies and foreign possessions on the basis, as nearly as may be of the provisions of the present Treaty

The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding Articles of the present Treaty

Article XIX

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties

After the Treaty shall have come into force, the Treaty concluded between the High Contracting Parties on the 31st of

¹ Added by the Supplementary Convention of 29th June 1894

March, 1874, shall be considered as cancelled except as to any proceedings that may have been already taken or commenced in virtue thereof

It may be terminated by either of the High Contracting Parties, on giving to the other Party six months' notice of its intention to terminate the same, but no such notice shall exceed the period of one year

The Treaty shall be ratified, and the ratifications shall be exchanged at Berne as soon as possible

UNITED STATES.

- 1 Treaty of August 9th, 1842, Article X
- 2 Convention dated July 12th, 1889
Date of Order in Council, March 21st, 1890
- 3 Convention dated December 13th, 1900
Date of Order in Council, June 26th, 1901
- 4 Convention dated April 12th, 1905
Date of Order in Council, February 11th, 1907

1. UNITED STATES.

1 Treaty among other things for the giving up of Criminal Fugitives from Justice, in certain cases Signed at Washington, 9th August, 1842

Article X.

It is agreed that Her Britannic Majesty and the United States shall, upon mutual requisition by them or their ministers, officers, or authorities, respectively made, deliver up to justice all persons who being charged with the crime of murder, or assault, with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either, shall seek an asylum, or shall be found within the territories of the other, provided that this shall only be done upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the crime or offence had there been committed, and the respective Judges and other Magistrates of the two Governments shall have power, jurisdiction and authority, upon complaint made under oath, to issue a warrant for the arrest of the person so charged, that he may be brought before the other Magistrates respectively, and that the criminality may be heard and adjudged, and if, arising, the evidence be deemed sufficient to sustain the charge, it shall be the duty of

examining Judge or Magistrate to certify the same to the proper executive authority, that a warrant may issue for the surrender of such fugitive. The expense of such apprehension and delivery shall be borne and defrayed by the party who makes the requisition and receives the fugitive

2. UNITED STATES

Article I.

The provisions of the said Xth Article are hereby made applicable to the following additional crimes —

1 Manslaughter when voluntary.

2. Counterfeiting or altering money, uttering or bringing into circulation counterfeit or altered money.

3. Embezzlement, larceny, receiving any money, valuable security or other property, knowing the same to have been embezzled, stolen, or fraudulently obtained.

4 Fraud by a bailee, banker, agent, factor, trustee, or director or member or officer of any company, made criminal by the laws of both countries

5. Perjury, or subornation of perjury.

6. Rape, abduction, child stealing, kidnapping

7. Burglary, house breaking or shop breaking.

8. Piracy by the law of nations.

9 Revolt, or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master, wrongfully sinking or destroying a vessel at sea, or attempting to do so, assault on board a ship on the high seas with intent to do grievous bodily harm

10 Crimes and offences against the laws of both countries for the suppression of slavery and slave trading.

Extradition is also to take place for participation in any of the crimes mentioned in this Convention or in the aforesaid Xth Article, provided such participation be punishable by the laws of both countries.

Article II.

has in fact been made with a view to try or punish him for an offence of a political character,

No person surrendered by either of the High Contracting Parties to the other shall be triable or tried, or be punished for any political crime or offence, or for any act connected therewith committed previously to his extradition.

If any question shall arise as to whether a case comes within the provisions of this Article, the decision of the authorities of the Government in whose jurisdiction the fugitive shall be at the time shall be final.

Article III.

No person surrendered by or to either of the High Contracting Parties shall be triable or be tried for any crime or offence committed prior to his extradition other than the offence for which he was surrendered, until he shall have had an opportunity of returning to the country from which he was surrendered.

Article IV.

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offence charged, or being material as evidence in making proof of the crime or offence, shall, so far as practicable, and if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to the articles aforesaid shall be duly respected.

Article V.

If the individual claimed by one of the two High Contracting Parties, in pursuance of the present Convention, should also be claimed by one or several other Powers on account of crimes or offences committed within their respective jurisdiction, his extradition shall be granted to that State whose demand is first received.

The provisions of this Article, and also of Articles II to IV inclusive, of the present Convention, shall apply to surrender for offences specified in the aforesaid Xth Article, as well as to surrender for offences specified in this Convention.

Article VI.

The extradition of fugitives under the provisions of this Convention and of the said Xth Article shall be carried out in Her Majesty's dominions and in the United States, respectively, in conformity with the laws regulating extradition for the time being in force in the surrendering State.

Article I II

The provisions of the said Xth Article and of this Convention shall apply to persons convicted of the crimes therein respectively named and specified whose sentence therefor shall not have been executed

In case of a fugitive criminal alleged to have been convicted of the crime for which his surrender is asked, a copy of the record of the conviction, and of the sentence of the Court before which such conviction took place, duly authenticated, shall be produced together with the evidence proving that the prisoner is the person to whom such sentence refers

Article I III

The present Convention shall not apply to any of the crimes herein specified which shall have been committed or to any conviction which shall have been pronounced prior to the date at which the Convention shall come into force

Article I X

This Convention shall be ratified and the ratifications shall be exchanged at London as soon as possible

It shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties and shall continue in force until one or the other of the High Contracting Parties shall signify its wish to terminate it, and no longer

3. UNITED STATES.

Article I

The following crimes are added to the list of crimes numbered 1 to 10 in the first Article of the said Convention of July 12 1883, on account of which extradition may be granted that is to say —

11. Obtaining money, valuable securities, or other property by false pretences
12. Wilful and unlawful destruction or obstruction of railroads which endangers human life
13. Procuring abortion.

Article II

The present Convention shall be considered as an integral part of the said Extradition Convention of July 12, 1889, and the first Article of the last-mentioned Convention shall be read

as if the list of crimes therein contained had originally comprised the additional crimes specified, and numbered 11 to 13 in the first Article of the present Convention

The present Convention shall be ratified, and the ratifications shall be exchanged either at London or Washington as soon as possible

It shall come into force ten days after its publication, in conformity with the laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of July 12, 1889

4. UNITED STATES

Article I

The following crimes are added to the list of crimes numbered 1 to 10 in the 1st Article of the said Convention of the 12th July, 1889, and to the list of crimes numbered 11 to 13 in Article I of the Supplementary Convention concluded between the United States and Great Britain on the 13th December, 1900, that is to say —

14 Bribery, defined to be the offering, giving, or receiving of bribes made criminal by the laws of both countries

15 Offences, if made criminal by the laws of both countries against bankruptcy law

Article II

The present Convention shall be considered as an integral part of the said Extraditions Conventions of the 12th July, 1889 and the 13th December, 1900, and the 1st Article of the said Convention of the 12th July, 1889, shall be read as if the lists of crimes therein contained had originally comprised the additional crimes specified and numbered 14 and 15 in the 1st Article of the present Convention

The present Convention shall be ratified, and the ratifications shall be exchanged either at Washington or London as soon as possible.

It shall come into force ten days after its publication in conformity with the laws of the High Contracting Parties, and it shall continue and terminate in the same manner as the said Convention of the 12th July, 1889

Article VIII.

The above Treaty shall continue in force until either one or the other of the High Contracting Parties shall give notice to the other of its wish to terminate it, and no longer

Article IX.

Nothing herein contained shall be deemed to affect any Treaty now existing between the High Contracting Parties, except so far as any such Treaty may be repugnant hereto

II

Memorandum, dated the 23rd of July, 1866, supplemental to the Treaty with the State of Nepal of the 10th of February 1855

That subject to all the other conditions of the Treaty which was executed at Khatmandoo by the same parties on the tenth day of February one thousand eight hundred and fifty five, corresponding to the eighth day of *Fagoon*, *sumbut* nineteen hundred and eleven, and the view to the prevention of frontier disputes, and the more speedy and effectual repression of crime upon the border, the offences of cattle stealing, of embezzlement by public officers, and of serious theft, that is to say, cases of theft in which the amount stolen may be considerable, or personal violence may have been used, shall be included in the list of crimes for which surrenders shall be demanded by either Government. In fact, they are hereby formally added to the list of crimes specified in the 4th Article of the said Treaty.

III

Memorandum dated the 24th of June, 1881 supplemental to the Treaty with the State of Nepal, dated the 10th February,

1895, A. D

That the offence of escaping from custody whilst undergoing punishment after conviction of any of the offences specified in the fourth Article of the aforesaid Treaty, or in the aforesaid Memorandum, shall be deemed to be added to the list of offences specified in the fourth Article of the aforesaid Treaty.

Note—The full text of these Treaties with Nepal is printed in *Aitchison's Treaties*, vol II, pp 118 122

IV.

Extract from Treaty of Friendship of 1923

All previous Treaties, Agreements and Engagements since and including the treaty of Segowlie of 1815, which have been concluded between the two Governments are hereby confirmed, except so far as they may be altered by the present Treaty.

2. HYDERABAD.

I.

EXTRADITION TREATY, DATED 8TH MAY, 1867.

Article I

The two Governments hereby agree to act upon a system of strict reciprocity, as hereinafter mentioned.

Article II.

Neither Government shall be bound in any case to surrender any person not being a subject of the Government making the requisition. If the person claimed should be of doubtful nationality, he shall, with a view to promote the ends of justice, be surrendered to the Government making a requisition.

Article III.

Neither Government shall be bound to deliver up debtors or civil offenders, or any person charged with any offence not specified in Article IV.

Article IV.

Subject to the above limitations, any person who shall be charged with having committed within the territories belonging to or administered by the Government making the requisition, any of the undermentioned offences, and who shall be found within the territories of the other, shall be surrendered, the offences are—

- (1) Mutiny.
- (2) Rebellion
- (3) Murder.
- (4) Attempting to murder.
- (5) Rape.
- (6) Great personal violence.
- (7) Maiming.
- (8) Dacoity.
- (9) Thuggee.
- (10) Robbery.
- (11) Burglary.
- (12) Knowingly receiving property obtained by dacoity robbery or burglary.
- (13) Thefts of property exceeding 100 rupees in value
- (14) Cattle-stealing.

- (15) Breaking and entering a dwelling-house and stealing therein.
- (16) Setting fire to a village, house, or town.
- (17) Forgery or uttering forged documents.
- (18) Counterfeiting current coin
- (19) Knowingly uttering base or counterfeit coin
- (20) Embezzlement, whether by public officers or other persons
- (21) Kidnapping
- (22) Abduction.
- (23) Being an accessroy to any of the above-mentioned offences

Article V.

In no case shall either Government be bound to surrender any person accused of any offences except upon requisition duly made by, or by the authority of, the Government within whose territories the offence shall be charged to have been committed, and also upon such evidence of criminality as, according to the laws of the country in which the person accused shall be found, would justify his apprehension and sustain the charge, if the offence had been there committed.

Article VI.

The above Treaty shall continue in force until either one or the other of the High Contracting Parties shall give notice to the other of its wish to terminate it, and no longer.

Article VII.

All existing agreements and engagements shall continue in full force

II.

Agreement made between His Highness the Nizam and the Government of India, modifying the provisions of the Treaty of 1867

WHEREAS a Treaty relating to the extradition of offenders was concluded on the 25th May 1867 between the British Government and the Hyderabad State, AND WHEREAS the procedure prescribed by the Treaty for the extradition of offenders from

* These offences were added to this list subsequently

British India to the Hyderabad State has been found by experience to be less simple and effective than the procedure prescribed by the law as to the extradition offenders in force in British India. It is hereby agreed between the British Government and the Hyderabad State that the provisions of the Treaty prescribing a procedure for the extradition of offenders shall no longer apply to cases of extradition from British India to the Hyderabad State, but that the procedure prescribed by the law as to the extradition of offenders for the time being in force in British India shall be followed in every such case.

Signed at Hyderabad Deccan, on the twenty first day of July one thousand eight hundred and eighty seven

(G. O 28th November 1887, No 2697 Judicial).

III.

When offenders from the Hyderabad State are apprehended in British territory by the Nizam's Police and made over to the British authorities in view to their formal surrender to the Nizam's Government the receipt of the Magistrate having jurisdiction in the place in which the offenders are arrested shall in all cases, be required as a voucher—(G O, 16th June, 1870, No 814, Judicial)

The following direction by the Governor-General, dated 22nd May, 1885, has been published

I No 1637 I—In exercise of the powers conferred by [s. 22 of Act XV of 1903, The Indian Extradition Act] and all other powers enabling him in this behalf, the Governor-General in Council is pleased to direct as follows—

(1) The Superintendent of the Hyderabad Residency Bazaars for the time being shall exercise within the limits of the Hyderabad Residency Bazaars the powers of a District Magistrate as described in the Code of Criminal Procedure

(2) The First Assistant to the Resident at Hyderabad for the time being shall exercise, within the limits of the Hyderabad Residency Bazaars, the powers of a Court of Sessions as described in the Code of Criminal Procedure.

(3) The Resident at Hyderabad for the time being shall exercise, within the limits of the Hyderabad Residency Bazaars, the powers of a High Court as described in the Code of Criminal Procedure

(4) This notification applies to all proceedings against except proceedings against European British subjects or persons jointly charged with European British subjects.

(5) (All criminal powers which may, before the date of this notification, have been exercised by the officers referred to herein within the limits specified shall be deemed to have been exercised in accordance with law

(6) So much of the notification of the Government of India in the Foreign Department, No 29, Judicial, dated the 18th January, 1869, as applies to the Hyderabad Residency Bazaars, is hereby cancelled

II No 1639 I—In exercise of the powers conferred by [s 22 of/Act XV of 1903, The Indian Extradition Act] and of all other powers enabling him in this behalf, the Governor General in Council is pleased to direct as follows—

(1) The Superintendent the Hyderabad Residency Bazaars for the time being shall exercise, within the limits of His Highness the Nizam's Territories (in all cases in which such powers may lawfully be exercised by the Governor General in Council within such territories) the powers of a District Magistrate as described in the Code of Criminal Procedure

(2) The First Assistant to the Resident at Hyderabad for the time being shall exercise, within the limits of His Highness the Nizam's Territories in all cases in which such powers may lawfully be exercised by the Governor-General in Council within such territories, the powers of a Court of Sessions as described in the Code of Criminal Procedure

(3) The Resident at Hyderabad for the time being shall exercise the powers of a High Court as described in the said Code in respect of all offences over which magisterial jurisdiction is exercised by the Superintendent of the Hyderabad Residency Bazaars within the said territories, and in respect of all offences over which the jurisdiction of a Court of Sessions is exercised by the First Assistant to the Resident within the said territories

(4) In the exercise of the jurisdiction of a Court of Sessions conferred on him by this notification, the First Assistant to the Resident may take cognizance of any offence as a Court of original criminal jurisdiction without the accused person being committed to him by a Magistrate, and shall, when so taking cognizance of any offence, follow the procedure laid down by the Code of Criminal Procedure for the trial of warrant cases by Magistrates

(5) This notification applies to all proceedings, except proceedings against European British subjects or persons jointly charged with European British subjects, and it applies to proceedings which may be pending at the date of this notification

if they have been instituted and are being conducted in conformity with the provisions herein contained.

(6) Nothing in this notification shall be deemed to extend to any Cantonment or to the Hyderabad Residency Bazaars, or to any railway lands situate within the said territories — (*Gazette of India*, 23rd May, 1885, Part I. p. 304.)

3. RAJPUTANA STATES

I.

ALWUR.

Extradition Treaty, dated 12th of October, 1867.

Article I.

That any person, whether a British or a foreign subject committing a heinous offence in British territory, and seeking shelter within the limits of the Ulwur State, shall be apprehended and delivered up by the latter Government to the former on requisition in the usual manner

Article II.

That any person, being a subject of Ulwur, committing a heinous offence within the limits of the Ulwur State, and seeking asylum in British territory, will be apprehended and delivered up by the latter Government to the former on requisition in the usual manner.

Article III.

That any person, other than an Ulwur subject, committing a heinous offence within the limits of the Ulwur State, and seeking asylum in British territory, will be apprehended, and the case investigated by such Court as the British Government may direct. As a general rule, such cases will be tried by the Court of the Political Officer, in whom the political supervision of Alwar may at the time be vested.

Article IV.

That in no case shall either Government be bound to surrender any person accused of a heinous offence, except upon requisition duly made by, or by the authority of, the Government within whose territories the offence shall be charged to have been committed, and also upon such evidence of criminality as, according to the laws of the country in which the person accused shall be found, would justify his apprehension, and sustain the charge if the offence had been there committed.

Article V.

That the following offences be deemed as coming within the category of heinous offences —

- | | |
|--|--|
| 1 —Murder. | 11.—Robbery |
| 2 —Attempt to murder. | 12 —Burglary. |
| 3 —Culpable homicide under
aggravating circumst-
stances | 13 —Cattle theft.
14 —Arson. |
| 4 —Thuggee. | 15 —Forgery |
| 5 —Poisoning. | 16 —Counterfeiting coin, or utter
ing base coin |
| 6 —Rape. | 17 —Criminal breach of trust. |
| 7.—Causing grievous hurt | 18.—Criminal misappropriation
of property. |
| 8.—Child stealing | 19 —Abetting the above offences |
| 9 —Selling females | |
| 10.—Dacoity | |

Article VI.

The expenses of any apprehension, detention, or surrender made in virtue of the foregoing stipulations shall be borne and defrayed by the Government making the requisition

Article VII

The above Treaty shall continue in force until either of the High Contracting Parties shall give notice to the other of its wish to terminate it

Article VIII.

Nothing herein contained shall be deemed to affect any Treaty now existing between the High Contracting Parties except so far as any Treaty may be repugnant thereto.

II

Exactly similar treaties were entered into by the following States and the dates specified against each —Banswara, 24th December 1868, Bharatpur, 24th December 1867, Bikaner, 3rd February 1869, Bundi, 1st February 1869, Dholpur, 14th January 1868, Dungarpur, 7th March 1869, Jaipur, 13th July 1868, Jaisalmere, 10th March 1870, Jhalawar, 18th March 1868, Jodhpur, 6th August 1868, Kasauli, 27th November 1868, Kishangarh, 27th November 1868, Koba, 6th February 1869, Partabgarh, 22nd December 1868, Sirohi, 9th October 1867, Tonk, 28th January 1868, Udaipur, 17th December 1868 See Aitchison's *Treaties*, vol III.

III.

AGREEMENT SUPPLEMENTARY TO THE TREATY OF 1867
REGARDING EXTRADITION—1887.

Whereas a Treaty relating to the extradition of offenders was concluded on the 29th October, 1867, between the British Government and the Ulwur State And whereas the procedure prescribed by the Treaty for the extradition of offenders from British India to the Ulwur State has been found by experience to be less simple and effective than the procedure prescribed by the law as to the extradition of offenders in force in British India, It is hereby agreed between the British Government and the Ulwur State that the provisions of the Treaty prescribing a procedure for the extradition of offenders shall no longer apply to cases of extradition from British India to the Ulwur State, but that the procedure prescribed by the law as to the extradition of offenders for the time being in force in British India shall be followed in every such case.

IV.

Similar supplementary agreements have been entered into by all the States specified in Part II of this Appendix

APPENDIX F.

Treaties with Native States etc.

1.—French Indian Governments

1 By the tacit consent of both the contracting powers—the French and English Governments—the clause in the Convention of March 1915, relating to the extradition of *Debtors*, has been treated as not in force and has not been acted on, consequently, it must be considered null and void. Further, although the 9th Article of the Treaty speaks of *offences* generally, the subsequent and uniform exposition of the Article, by the Acts the Declarations of the two Governments, has virtually put an interpretation to some extent upon the word “offences,” so as to limit its meaning to offences of a grave character, and to exclude from the operation of the treaty (a) mere petty local offences, which would not necessarily be treated as criminal acts by the laws of both countries, and (b) political offences. The Governor in Council resolves to give a general direction to all District Magistrates, to surrender to the French Authorities all persons claimed by them, as fugitives from justice in respect of offences of a grave character. All felonies and all crimes described as “heinous” in the Fugitive Foreign Offenders’ Act No VII of 1854, would, of course, come within the category of grave offences. Other cases of grave offences might easily be suggested, and where there is room for doubt, a reference to Government will be requisite before surrender is made, while a report of his proceedings in every case of surrender should be invariably made by the Magistrate with a view to his protection by the ratification of his act—(G. O 14th March, 1872, No. 359, 19th November, 1881, No. 2391, and 18th January, 1887, No 89, *Judicial*).

2 With reference to the above Proceedings, the several District Magistrates will, in future, submit the reports referred to at the close of para 4 of G O, 14th March, 1872, No. 359, in a form containing the following particulars —

(1) Names of offenders, (2) nature of offence, (3) to what authority surrendered, (4) date of surrender, (5) remarks. —(G O, 24th October, 1888, No, 2194, *Judicial*).

3 It was pointed out in G O, 14th March, 1872, No. 359, that, although the 9th Article of the Treaty with France speaks of *offences* generally, practice has long since limited the meaning to offences of a “grave” character. Looking at the Schedule attached to Act XXI of 1879 [now Schedule I to Act XV of 1903], the Government consider that the sections of the Indian Code there enumerated furnish a generally sufficient list of grave offences. The offence for which the present warrant was

issued is described as "*abus de con fiance*". If this may be rendered by 'Criminal Breach of Trust,' it is a grave offence, and is inserted as such in the list above mentioned, but as the Acting Magistrate seems to consider that the French term has a wider meaning and would include a departure from French territory by a mere debtor, it is competent to him to ask for particulars after a reference to the articles of the "Code Penal" cited in the warrant the extradition of debtors, as well of course as of Political offenders, not being within the Treaty, as interpreted by practice. As regards the question whether a resident of British Territory, sojourning in the French Territory for a few weeks or months on business affairs (with the *animus revertendi*) and returning to his own village thereafter should be deemed to take refuge within our territory or to become a fugitive from justice within the meaning of the Treaty of 1815, it is obligatory on the British Government to deliver up all persons against whom judicial proceedings shall be instituted within the French limits for grave offences committed within the said limits and who shall take refuge out of the same. The form of the *Manda' a Arret* issued by the French authorities appears unobjectionable, but the authority to deliver up fugitive offenders has been vested by Government in District Magistrates only—the attention of the French authorities should be invited to the necessity of making their requisitions to such officers only, in future cases —(*G O, 11th May, 1812, No 335 Judicial*).

4 In cases where surrender is applied for of persons escaping into British Territory on conviction by French courts, regard should be had to the nature of the offence with which the person was originally charged. By G. O 14th March 1872, No 359, and connected papers, the word 'offences' is limited to mean only offences of a grave character, and this distinction should be borne in mind whether the person has been only charged or both charged and convicted of an offence in French Territory —(*G O, 31st January, 188, No 178, Judicial*).

5. Where it is doubtful whether the offence committed is a "grave crime" as contemplated by the received interpretation of the Treaty of 1815, the Magistrate should ask for a copy of the complaint and submit it to Government for orders before taking any step for the apprehension of the accused —(*G. O, 26th March 1888, No. 747, Judicial*)

Police Convention.

The following Police Convention of 1872 regarding the suppression of offences and crimes committed in French and British territories will be followed in all parts of the Presidency which adjoin French Territory—

(1) The Police of both territories will, respectively communicate any useful information regarding what they do.

(2) They will exchange lists of vagrants and people without fixed residences, who wander from one territory to another

(3) The officers of the Judicial Police belonging to French Territory will arrest provisionally on either written or verbal requisitions of officers of the British Police —

(a) All French subjects suspected of theft with decoity, of gang robbery on the high roads of theft with force of homicide, or of murder They will draw up reports of the arrest and submit information as to what has been done by them

(b) British subjects suspected of grave crimes and offences other than those relating to the Revenue and Customs Laws

(4) They will proceed on similar requisitions to search for articles stolen and prepare reports regarding their seizure

(5) They will forthwith send the arrested prisoners and the articles seized to Pondicherry for the orders of the Solicitor General.

(6) In no case and under no pretext will they themselves make over the prisoners arrested or the articles seized to foreign agents (unknown parties)

(7) They are prohibited from performing any of their duties in foreign territory

(8) The above provisions are reciprocal, and will be observed by the officers of the British Police on requisitions made by officers of the French Judicial Police

Such arrest if not supported by a warrant issued by a Magistrate having jurisdiction under [s 4 of the Indian Extradition Act, 1903] would be illegal It will accordingly be an instruction to the Police, that arrest to apply to the warrant under [s. 4 of Ac

in most cases the Magistrate will be satisfied in the first instance with the mere production of the French requisition—(G O 9th February 1887, No 276, and 20th May 1887, Nos 1068, and 1078, Judicial)

Letter to Commissioners

The following letter, dated 28th June, 1884, from the Secretary to the Government of Bengal to all Commissioners of Divisions and District Magistrates, is important with reference

to extradition between the French and British possessions in India—I am directed to state, for your information, that the question of extradition between the French and British possessions in India has recently been under the consideration of the Government of India and Her Majesty's Secretary of State for India. The practical question at issue was whether the procedure in cases of extradition should be regulated by the stipulation of Article IX of the Treaty of 7th March, 1815, between Great Britain and France, which relates exclusively to the Indian possessions of the two countries, and under which persons accused of non political offences of a grave character have hitherto been surrendered upon application, supported by a warrant and summary of the charges, no depositions of witnesses being required, or whether it was necessary to observe the more stringent provisions of [s 3 of the India extradition Act XV of 1903] and ss 3 and 10 of Statute 33 and 34 Vict., c 52, relating to extradition. The decision at which Her Majesty's Government has arrived is, that the existing practice is to be maintained and that the Indian Act of 1903 and the English Statute of 1870 do not apply.

See Punjab Record 1893 p 47.

III.—Mysore

1. Any person, liable to be tried for an offence committed — Chapter I, section 1 within the territory of the Chief Commissioner, authorized for the purpose, in the same way and under the same conditions, with or without warrant, as if the offence had been committed in the territories of Mysore

2 If the person so arrested, be a British subject, or other than a subject of Mysore, he shall be surrendered for trial to the British authorities

3 If the person, so arrested, be a subject of the Government of Mysore he shall either be tried in the Courts in Mysore or surrendered for trial in British Courts, as may be found most convenient

4 Any subject of the Mysore Government liable to be

taking of the other steps necessary to the warrant being executed.—(*G. O. 18th April, 1877, No. 970, Judicial*).

V.—Penang.

Where the Lieutenant-Governor of Penang telegraphed to the Chief Police Officer of Negapatam requesting him to arrest an accused person who had escaped from Penang, the arrest made by the Police officer, without a warrant from a duly authorized Magistrate was held improper and the delivery of the accused without the warrant of the Local Government still more irregular. What a Magistrate, subordinate to the District Magistrate, should do, after issuing the warrant of arrest in any such case is to report his action to Government through the usual channel or channels and the District Magistrate in submitting the report to the Chief Secretary should state that he has telegraphed to the Executive Government or Foreign Power concerned, requesting that a requisition to give up the accused person may be made to the Governor in Council in accordance with [*The Indian Extradition Act, 1903*]—(*G. O. 29th April, 1882, No. 314, Judicial*)

VI. Punjab States.

With reference to the provisions of s. 13 of Act XXI of 1879, the Governor-General in Council was pleased to direct that for offences committed in any of the following States, *viz*, Patiala, Jind, Nabha, Maler Kotla, Kalsia Dujana Patandi and Loharu, Bahawalpur, Chamba, Faridkot, Mandi, Suket, Sirmur (Naha), Kahlural (Bailaspur), Bashahr, Nalagarh, Keonthal, Baghat, Baghat, Jubbah, Kumharsain, Bhajji Mailog, Balson Dhami, Kuthar, Nangal, Bija Darkuti, Jaroach, Sangli, the persons accused shall be handed over by the Political Agent concerned to the Courts of the State for trial. But this direction was subject to the instructions contained in the notifications published in the *Gazette of India*, No 87, J., dated the 16th August, 1876, and to the further condition that should there be, in any particular instance, special reason for so doing, the Political Agent might dispose of the case himself.—*Letter dated Simla, 18th August, 1885, Foreign Secretary to Government of Punjab (Punjab Re, Circular Or, p. 28)*.

Punjab Extradition Circular No. 20.

I—EXTRADITION FROM BRITISH INDIA TO INDIAN STATES.

1. Extradition from British India to Indian States regulated by the Indian Extradition Act, 1903 Reference should also be made to Chapter XIX of Volume III of the Rules and Orders of the High Court.

2 Extradition proceedings may begin in four different ways—

- (a) under section 7 of the Indian Extradition Act, 1903, a warrant for the extradition of a person, other than a European British subject, may be addressed to the District Magistrate of the district where he is believed to be by the Political Agent of the State in which the crime is alleged to have been committed,
- (b) on requisition from a State under section 9 of the same Act, Government may issue orders to a magistrate to enquire into the case of a fugitive criminal from that State,
- (c) under section 10 of the same Act, if a Magistrate of the 1st Class, or one specially empowered, believes a person, within the local limits of his jurisdiction, to have committed an offence within an Indian State for which he might be lawfully surrendered, he may, on information or complaint, issue a warrant for his arrest,
- (d) under section 54 (1), *seventhly*, of the Code of Criminal Procedure a person believed to have been concerned in any act committed outside British India which would have been punishable as an offence had it been committed in British India, may be arrested by any Police officer in British service without an order from a Magistrate and without a warrant.

3. Where a person is produced under (a) in paragraph 2 above the Magistrate has no option, but to comply with the requirements of the Political Agent's warrant, so far as these are in accordance with the provisions of the Act, and under (b) the Magistrate must make a judicial enquiry into the case, reporting the result for the orders of Government as prescribed by section 3 of the Act. In either case though he may order the person to be detained in custody he has no power to release him without taking bail, except under the orders of the local Government.

4 In cases covered by section (1) of the Act the Magistrate has discretion whether to issue process or not. If he does so, and the accused person is produced, the Magistrate may not, without the special sanction of the local Government detain the accused more than two months unless within such period he receives the Political Agent's warrant under section 7 or an order of Government under section 3. The Magistrate is empowered to grant bail under section 10 (4), the provisions of the Code of Criminal Procedure applying in the same manner as if the accused were charged with committing in British India the offence of which he is suspected.

In the case of an arrest by the police on their own initiative and not on a warrant issued by a magistrate under section 10, or may release him. In the exercise of this discretion, however, magistrates should bear in mind the difficulties of re-arrest when once a person whose extradition is desired has been released. When therefore a person charged with the commission of an offence in Indian State territory, for which he may lawfully be surrendered to such State, is brought before a magistrate, he should not be released without due enquiry. The fact that such a person may have been illegally arrested, e.g. when the arrest has been effected by State police in British territory, should not be regarded as sufficient in itself to justify his release provided that he is in lawful custody when he is brought before the District Magistrate. In cases where doubt exists the accused should ordinarily be released on bail pending receipt of the warrant of the Political Agent or the orders of the local Government, to one or other of whom the case will have been reported under section 10 (2) of the Act.

Note—The instructions in the preceding paragraphs must not be read as in any way superseding those contained in Chapter XIX of Volume III of the Rules and Orders of the High Court.

II—EXTRADITION FROM INDIAN STATES TO BRITISH INDIA

6. Extradition from Indian States to British India, on the demand of the British authorities is based on Paramount Power to claim the surrender of absconding offenders. The Indian Extradition Act and the Rules thereunder have, as such, no application to such extradition. The general principles to be observed, in regard to the extradition of persons accused of having committed offences within the limits of British India, who have taken refuge in an Indian State, are as follows—

- (a) Extradition may ordinarily be required by the British authorities from an Indian State in all cases in which the offence has been committed in such State.

Punjab Extradition Circular No. 20.

I—EXTRADITION FROM BRITISH INDIA TO INDIAN STATES.

1. Extradition from British India to Indian States regulated by the Indian Extradition Act, 1903 Reference should also be made to Chapter XIX of Volume III of the Rules and Orders of the High Court

2 Extradition proceedings may begin in four different ways—

- (a) under section 7 of the Indian Extradition Act, 1903, a warrant for the extradition of a person, other than a European British subject, may be addressed to the District Magistrate of the district where he is believed to be by the Political Agent of the State in which the crime is alleged to have been committed,
- (b) on requisition from a State under section 9 of the same Act, Government may issue orders to a magistrate to enquire into the case of a fugitive criminal from that State,
- (c) under section 10 of the same Act, if a Magistrate of the 1st Class, or one specially empowered, believes a person, within the local limits of his jurisdiction, to have committed an offence within an Indian State for which he might be lawfully surrendered, he may, on information or complaint, issue a warrant for his arrest,
- (d) under section 54 (1), *seventhly*, of the Code of Criminal Procedure a person believed to have been concerned in any act committed outside British India which would have been punishable as an offence had it been committed in British India, may be arrested by any Police officer in British service without an order from a Magistrate and without a warrant.

3. Where a person is produced under (a) in paragraph 2 above the Magistrate has no option, but to comply with the requirements of the Political Agent's warrant, so far as these are in accordance with the provisions of the Act, and under (b) the Magistrate must make a judicial enquiry into the case, reporting the result for the orders of Government as prescribed by section 3 of the Act. In either case though he may order the person to be detained in custody he has no power to release him without taking bail, except under the orders of the local Government.

4 In cases covered by section (1) of the Act the Magistrate has discretion whether to issue process or not. If he does so, and the accused person is produced, the Magistrate may not, without the special sanction of the local Government detain the accused more than two months unless within such period he receives the Political Agent's warrant under section 7 or an order of Government under section 3. The Magistrate is empowered to grant bail under section 10 (4), the provisions of the Code of Criminal Procedure applying in the same manner as if the accused were charged with committing in British India the offence of which he is suspected.

In the case of an arrest by the police on their own initiative under section 54 (1), *seventhly*, of the Code of Criminal Procedure, the Magistrate before whom the accused is produced has the discretion of proceeding under section 23 of the Act, or not, that is, he may detain the person as if he had been arrested on a warrant issued by a magistrate under section 10, or may release him. In the exercise of this discretion, however, magistrates should bear in mind the difficulties of re-arrest when once a person whose extradition is desired has been released. When therefore a person charged with the commission of an offence in Indian State territory, for which he may lawfully be surrendered to such State, is brought before a magistrate, he should not be released without due enquiry. The fact that such a person may have been illegally arrested, *e g* when the arrest has been effected by State police in British territory, should not be regarded as sufficient in itself to justify his release, provided that he is in lawful custody when he is brought before the District Magistrate. In cases where doubt exists, the accused should ordinarily be released on bail pending receipt of the warrant of the Political Agent or the orders of the local Government, to one or other of whom the case will have been reported under section 10 (2) of the Act.

Note—The instructions in the preceding paragraphs must not be read as in any way superseding those contained in Chapter XIX of Volume III of the Rules and Orders of the High Court.

II.—EXTRADITION FROM INDIAN STATES TO BRITISH INDIA

6. Extradition from Indian States to British India, on the demand of the British authorities, is based on Paramount Power to claim the surrender of absconding offenders. The Indian Extradition Act and the Rules thereunder have, as such, no applica-

- (a) Extradition may ordinarily be required by the British authorities from an Indian State in all cases in which had the offence been committed in such State the

authorities of the State could have obtained extradition from British India under the provisions of section 7 the Indian Extradition Act, that is, in other words, in all cases governed by the first schedule of the Act.

- (b) Extradition may be required in all cases in which it is customary, or permitted by treaty or engagement with a particular State
- (c) Necessary steps should always be taken to secure the extradition of absentee members of criminal tribes and of deserters from the Imperial Army
- (d) In other cases no demand for extradition should be made without reference to, and the approval of, the local Government

7 In cases in which extradition is sought from an Indian State, applications by the Police should be made to the Deputy Commissioner, and never direct to the Political Agent. The Deputy Commissioner will act not as magistrate, but in the exercise of his executive functions

8 If the Deputy Commissioner considers that extradition is necessary, he will forward to the Political Agent concerned (in the case of Kashmir, the Resident) an official requisition giving the information required by the printed form of statement appended to this circular. Such information should always include sufficient evidence to establish a *prima facie* case of criminality. In cases of great urgency the requisition may be made by telegram, to be followed without delay by the official letter and form of statement

9 The general rule is that for the purposes of extradition the Political Agent should be addressed in all cases except where the practice recognised by past usage can properly be observed. The Political Agents for the Indian States in the Punjab are the following —

Agent to the Governor General for Punjab States	{	Patiala.
		Bahawalpur
		Jind.
		Nabha
		Kapurthala.
		Sirmur.
		Mandi
		Bilaspur.
		Maler Kotla
		Faridkot
Commissioner, Ambala Division	{	Chamba.
		Suket.
		Loharu.
		Kalsia
		Pataudi
		Dujana.

Superintendent, Hill States,
Simla

The Simla Hill States, except
Bilaspur State

10. A person extradited from an Indian State must not be prosecuted before a British Court for an offence committed prior to extradition which is not disclosed by the facts embodied in the *prima facie* case by which extradition was secured. If it is desired to try the person extradited for a separate offence committed before extradition it will be necessary to submit a *prima facie* case to the authority which sanctioned the extradition with a view to obtaining the assent of that authority before the trial can proceed.

[Punjab Government No. 14308 (Pol.-N. S.) dated 7th May 1926.]

11. The fact that an accused person is undergoing a sentence of imprisonment in State territory does not necessarily constitute an objection to application for his surrender. In such cases, however, extradition is usually granted on the express condition that the accused is returned to the State for the completion of this sentence, immediately on the completion of his trial. Deputy Commissioners should take great care that this condition is fulfilled, and that the accused is not removed at the completion of his trial to a British jail.

12. British subjects alleged to have committed offence beyond the limits of British India for which they are amenable to the British tribunals are in some cases dealt with by the courts of the Political Agents exercising jurisdiction conferred under the Indian (Foreign Jurisdiction) Order in Council, 1902 but extradition from an Indian State may properly be sought in all cases in which the local Government may consider it desirable to have the offenders tried under the laws of British India.

13. In regard to cases in which the extradition of persons
- - - - -ces for which they are amen-
- - - - -sought from an Indian State,
- - - - -jurisdiction of British Courts
extends, in certain cases, to offences committed by British
subjects beyond the limits of British India, as well as to offences
committed within the limits of British India, whether by British
subjects (European or Indian) or by the subjects of Indian States
(section 4 of the Indian Penal Code as amended by Act IV of
1898, and sections 188 and 189 of the Code of Criminal
Procedure, 1898).

III.—EXTRADITION OF OFFENCES FROM ONE STATE TO ANOTHER.

14 The cognate question of extradition of offenders from one Indian State to another is not dealt with in this circular. Such surrenders are in case of some States made reciprocally under rules which have been approved by the Government of India, *e. g.*, between the Phulkian and some of the Rajputana States, and in many cases similar rules have been framed for the mutual surrender of deserters from the ranks of the Imperial Service Troops.† Such of the Indian States under the Agent to the Governor-General, Punjab States, as have Imperial Service Troops and the Kashmir Darbar have agreed to the mutual surrender of deserters (other than officers) from the Imperial Service Troops. The practice, however, is not regulated by British law and rests upon agreements effected through and with the sanction of the Paramount Power, and each case must be dealt with as it arises in accordance with the rules or established custom or under the orders of Government.

Notes.

* (See rules between Patiala and Jaipur—pages 22—28 of the file No 10, volume III)

(2) See rules between Alwar Patiala and Nabha—page 74 of the file No. 10 volume III

(3) See rules between Jaipur Jind Nabha and Loharu—pages 226 227 and 228 of file No 10 volume III

(4) See rules between Bikaner Patiala Jind Nabha and Loharu—pages 209, 284 and 293 of the file No 10 volume III

(5) See rules between Kashmir and Chamba—pages 347—351 and 356 of the file No 10 volume III

† (6) *Eg* between Alwar Patiala and Nabha—page 354 of file No 10 volume III

(7) *Eg* between Kashmir and Patiala—pages—309—314 of file No 10 volume III

‡ Page 105 printed file No 22

IV.—PURSUIT OF ACCUSED PERSONS INTO INDIAN STATES.

15. In respect of the pursuit of accused persons by complainants and British Police Officers into the territory of the Indian State, and *vice versa*, past practice should be observed in respect of the formalities, if any, with which such pursuit should be conducted. The action to be taken for the purpose of obtaining extradition does not in any way militate against the taking of all necessary steps to obtain the immediate assistance of the officials of Indian States in investigating cases, following up offenders and effecting their apprehension and detention pending the grant of extradition, and, in all such matters, existing usage should continue to be followed. Deputy Commissioners may, when necessary, apply direct to the officers in charge of neigh-

bouring districts of Indian States for the preliminary arrest and detention of accused persons for whose extradition a requisition has been submitted

V—EXPENSES OF TRANSFERS OF ACCUSED PERSONS

16 The procedure in force in the Punjab for the adjustment of expenses incurred in transferring accused persons to add from Indian States is that each side should accept its own expenses though incurred at the request of the other as a final charge against its own contingencies. Deputy Commissioners should therefore not demand from Indian States any refund of charges incurred in transferring accused persons to Indian States. An exception to this rule is, however, made in the case of the States of the Rajputana Agency whose extradition treaties provide that such escort expenses shall be borne by the Government making the requisition for the transfer of the accused person

APPENDIX.

(*Vide para 8*)

(1) Date of submission.

(2) Place of occurrence with name of district and thana.

(3) Name and place of resident of complainant.

(4) Name, parentage and cast (if known), and place of residence of accused

(Here state whether accused is a British or State subject.)

(5) Section of the Indian Penal Code or other law applicable.

(6) Date of occurrence.

(7) Place where it is believed that accused is to be found, and whether he is at large or under arrest.

(8) Summary of evidence and deposition already recorded.

(9) Remarks.

